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ABSTRACT

Secondary-level learning activities dealing with youth and the law are included in this resource guide. Although the guide was written specifically for use in Oklahoma schools, it can, with modifications, serve as a model for other states. There are seven sections dealing with youth and: employment law, business rights and responsibilities, property, school, relations between people, arrest, and the court system. Each section is comprised of two parts, one containing questions and answers, the second containing learning activities. Students are expected to read and then use the materials provided in a question and answer section in many of the learning activities. For example, in the section on youth and property, students read the definitions of various types of crimes. A learning activity then asks them to read about criminal acts and identify the crime. Examples of other activities include involving students in discussing specific court cases, taking matching tests, and analyzing crime statistics. A selected bibliography is provided. (RM)

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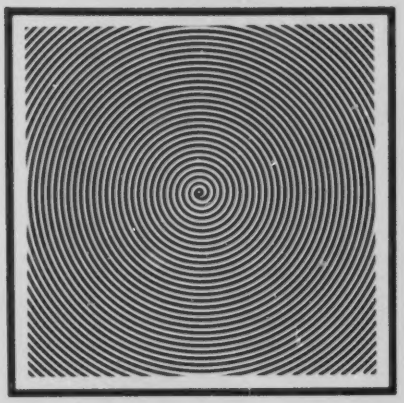

IT'S THE LAW:

Student's Rights and Responsibilities!

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FOREWORD

The world today is extremely complex. For people of all ages to function in today's world they must have an understanding of the laws and the legal system. *IT'S THE LAW: STUDENTS' RIGHTS AND RESPONSIBILITIES*, serves as a resource for educators.

The topics covered and the learning activities presented herein were researched and developed by a group of attorneys, judges, and students from throughout Oklahoma.

We gratefully acknowledge and thank those individuals as well as all others who contributed to this publication.

Leslie Fisher
State Superintendent

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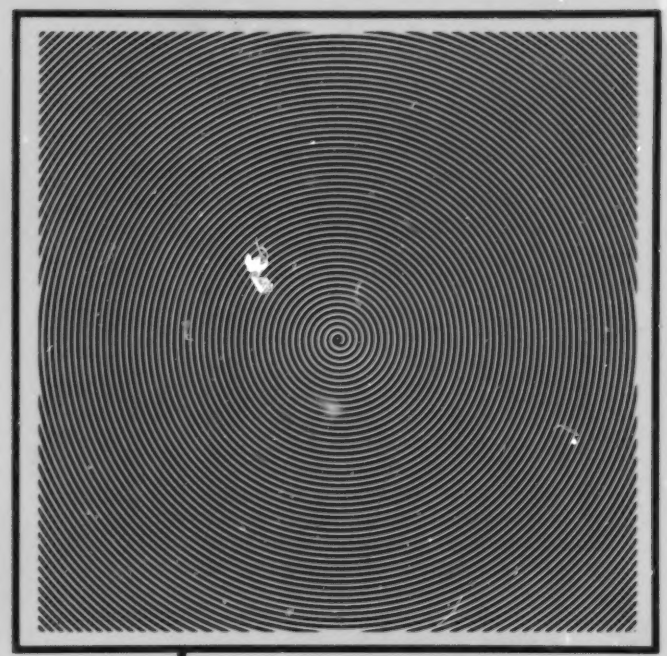


Youth and Employment Law

YOUTH AND EMPLOYMENT LAW

1. Are there age related restrictions on the type of employment a teenager may engage in?

Yes. Oklahoma law provides the following restrictions *(40 O.S. 71-72) (*3 Okla. Constitution 3)*:

A. No child under fourteen (14) years old shall be employed to work in any factory, factory workshop, pool hall, or steam laundry.

B. No child under fifteen (15) years old shall be employed in jobs which are especially dangerous to life or limb, or which are injurious to morals.

C. No child under sixteen (16) years old shall be employed or permitted to work in any of the following jobs:

1. oiling or assisting in oiling any dangerous machine or adjusting any belt to such a machine while the machine is in motion,
2. operating or assisting in the operation of a band or circular saw,
3. working with steam boilers or steam machinery,
4. working with punches or shears,
5. working where there are dyes, lyes, gases, or dust which is hazardous to health,
6. operating elevators,
7. preparing any composition in which dangerous or poisonous acids are used,
8. manufacturing paint, colors or white lead,
9. dipping, dyeing or packing matches,
10. working with fuses or explosives,
11. manufacturing goods for immoral purposes,
12. working underground in a mine or quarry,
13. also, females may not be employed in a capacity which requires standing constantly.

2. What are the minimum age requirements for employment in Oklahoma?

Children sixteen (16) years or older are able to hold most types of jobs. Children under sixteen (16) are subject to the restrictions listed in the answer to Question 1.

3. Once a younger employee is hired, must an employer comply with any special provisions because of that employee's age?

Yes. Oklahoma law *(40 O.S. 76)* provides that children under the age of sixteen (16) may not work at virtually any job between 6 p.m. and 7 a.m. About the only exception is that fifteen (15)-year-olds may work as ushers, cashiers, or concession stand operators until 11 p.m.

Also except for agricultural or domestic work *(40 O.S. 75)*, children under 16 may not work more than 8 hours a day with a one hour lunch break, nor more than 40 hours a week. Also, children under 16 must be provided with seats and permitted to use them so far as the nature of the work allows.

Wages

4. Must a teenager be paid minimum wage?

This depends upon whether his employer is subject to the federal minimum wage law.

If an employer is engaged in interstate commerce and therefore subject to the federal law, he must pay minimum wage to all employees *(29 U.S. Code 206)*. However, with the prior approval of the Secretary of Labor, an employer may pay as little as 85 percent of minimum wage if the employee is a full-time student *(29 U.S. Code 214)*.

If an employer is not subject to federal law, then Oklahoma law applies *(40 O.S. 197.4)*. This provides that a teenager must be paid minimum wage if:

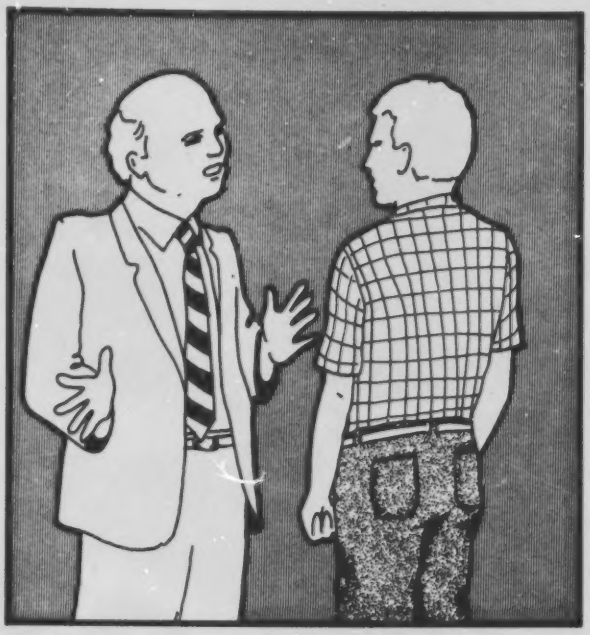
(a) He works for a business employing more than 10 full-time employees or grossing more than $100,000 annually, and

(b) He is employed 25 or more hours per week, and

(c) He is eighteen (18) years of age or older and a graduate of a high school or vocational school.

5. What recourse does a youth have if his employer wrongfully refuses to pay minimum wage?

Under Oklahoma law *(40 O.S. 197.7)*, an employee may file a verified complaint with the Commissioner of Labor. If the claim is determined to be valid, the employer may pay the claim and absolve himself from further liability. If the employer refuses to pay a claim, then the employee may sue.



Under federal law, the employee has two options:

a. File a written request for an investigation with the Secretary of Labor. If the complaint is legitimate, the Secretary may sue the employer on behalf of the employee *(29 U.S. Code 216)*, or

b. The employee personally may sue the employer *(29 U.S. Code 216)*.

6. What recourse does an employee have if an employer refuses to pay wages when due?

An employee may bring an action against his employer for unpaid wages up to $600 *(40 O.S. 165.9)*. This law also allows for recovery of costs and reasonable attorney's fees.

7. Does a minor's income have to be reported on his parents' income tax?

No. This applies even if the child does not receive the money. Money earned by the child is included in gross income *(26 U.S. Code 73, a)*.

Workmen's Compensation

8. What is Workmen's Compensation?

Under Oklahoma law, this is the method used to compensate employees and their dependents for injuries and death occurring in the course of employment.

9. What is unemployment compensation?

This is a form of compulsory, state-imposed, insurance which provides payments to persons, who under certain conditions, are unemployed. Here industry, rather than the taxpayers, bears the burden of the cost. This expense is paid by the employer, or by the employer and employee jointly.

10. How long does an establishment have to pay Workmen's Compensation if I am hurt on the job?

The length of payment depends upon the nature of the injury.

If your injury creates a permanent total disability, the payments continue for as long as the disability continues *(85 O.S. 22)*. If the injury creates a temporary total disability, the payments may continue for up to 300 weeks. If the injury creates a permanent partial disability, such as the loss of a finger or an eye, the payments continue for a period set by law. The exact period varies with the particular loss.

Work Permits

11. When are "work permits" or age and schooling certificates required and how are they obtained?

Oklahoma law *(40 O.S. 77)* provides that before any child under sixteen (16)-years old is employed in one of the occupations listed in Title 40, section 71 (see answer to Question 1), he must obtain an age and schooling certificate.

The certificate is obtained from the County Superintendent of Public Instruction or the school official designated by him. The child must apply for the certificate in person and he must be accompanied by a parent or guardian *(40 O.S. 80)*. The child also must bring documentary proof of age, usually a birth certificate. Before the age and schooling certificate is issued, the child's parent or guardian must present a school attendance certificate to the Superintendent or designated official. The attendance certificate is a written statement by one of the child's teachers which states the child's school record age, the age the teacher believes the child to be, and that the child regularly attended school for the full term of the preceding year. Blank forms can be obtained from the County Superintendent.

Liability of Employers

12. Are employers liable for the acts of their employees?

This depends upon the type of act in question, the job the employee was hired to do, and the legal characterization of the relationship between the employer and employee.

Here there are two principal types of legal relationships:

(a) Master and Servant: Here an employer is held liable for civil wrongs which are committed by the employee within the scope of his employment.

For instance, if an employee is hired to drive a truck between points "A" and "B", the employer will be held liable for injuries to another person which occur as a result of the employee's negligent operation of the truck between "A" and "B".

(b) Principal and Agent: Here the employer is not liable for the employee's civil wrongs. However, the employee may bind the

employer contractually, as long as the contract in question was entered into within the scope of the employee's authority.

The major distinction between a master-servant relationship and a principal-agent relationship is the degree of direct control or supervision that can be exercised by the employer. The less direct control an employer can exercise over the manner in which an employee performs his job, the more likely a court is to find that a principal-agent relationship exists rather than a master-servant relationship.

YOUTH AND EMPLOYMENT LAW

Learning Activity #1

Title: Here are the Answers, What are the Questions?

Objective: Students will be able to associate the appropriate questions with a correct answer and to formulate questions for answers they desire regarding employment.

Approximate Time: 15 minutes

Materials: Question and answer section entitled "Youth and Employment Law."

Directions: To the Teacher

1. Write on the chalkboard the questions regarding youth employment found on the section entitled "Youth and Employment Law."
2. Tell students you are going to read the answers to the questions written on the board and that when they recognize the question to which the answer applies they should write on a sheet of paper the number of the question as it appears on the board.
3. After all the answers have been read, students may correct their responses.
4. After responses have been checked, divide students into groups of three and ask each group to identify two or more additional questions regarding employment. Allow seven minutes for this part of the activity.
5. Record the questions on the chalkboard. Ask a student to record the questions on paper for future reference.
6. Assign the unanswered questions to individual students. They may receive information from the Office of the Commissioner of Labor, Room 118, State Capitol Building, Oklahoma City, 73105, (405) 521-

2461, or from the Oklahoma Employment Security Commission, Will Rogers Memorial Office Building, Oklahoma City, 73105, (405) 521 3794.

Evaluation: The objective has been accomplished if students get 80 percent or more correct responses and if at least ten additional questions of interest are raised.

YOUTH AND EMPLOYMENT LAW

Learning Activity #2

Title: Here are the Questions, What are the Answers?

Objective: Students will formulate answers to questions regarding employment law and compare their answers with answers provided by attorneys.

Approximate Time: 20 minutes

Materials: Question and answer section entitled "Youth and Employment Law."

Directions: To the Teacher

1. Write on the chalkboard questions found in the section entitled "Youth and Employment Law." Preface the questions with the heading: Dear Attorney: I am a fifteen year old youth and would like answers to the following questions regarding employment law in Oklahoma.
2. Assign one or more questions to each student and ask each to formulate an answer to the question(s). Allow seven minutes to to provide the answer(s) the student thinks would be correct.
3. After students have provided their answer(s) give them the question and answer section entitled "Youth and Employment Law."
4. Ask them to compare their answer(s) with the answer(s) provided by the attorney and to subsequently correct their answer(s) as needed.
5. Discuss in class.

Evaluation: Objective has been attained if students show an interest in the following discussion and raise other pertinent questions regarding employment law.

YOUTH AND EMPLOYMENT LAW

Learning Activity #3

Title: Applying the Law to the Job

Objective: Students will be able to apply the law to the job situations.

Approximate Time: 30 minutes

Materials: Questions and answers from section entitled "Youth and Employment Law"; page entitled "Additional Practical Information Regarding Employment"; and page entitled Applying Employment Knowledge and Law, this activity.

Directions: To the teacher

1. Provide students with the information listed under materials above.
2. Note that the information students now have begins with Item 1, "Are there age related . . ." and concludes with Item 17, "equal employment opportunities."
   Explain to students that they are to match all of the numbered items 1-17 that give information on the employment situation as found on the page entitled "Applying Employment Knowledge and Law."
3. After students have had an opportunity to complete the exercise they should check their own papers for correct responses. Discuss questions that may arise.

Evaluation: The objective has been accomplished if students correctly match 80 percent of the laws and information with the proper employment situations.

Correct responses are: A - 1, 7, 9, 10, 14, 15; B - 10, 14, 15; C - 14; D - 15; E - 2, 3; F - 2, 3, 4; G - 7; H - 14; I - 12; J - 6; K - 16; L - 5, 8.

Learning Activity #3 Applying the Law to the Job (con't.)

Applying Employment Knowledge to the Law

Listed below are employment situations which you may have already encountered or will encounter in the near future. From the section entitled "Youth and Employment Law" and the page entitled "Additional Practical Information . . ." select the law or information that might apply to a given situation. Record the number of the law or employment information in the proper column to the right of the situation. In some cases there may be more than one response - check all possibilities.

Employment Situation	Laws or Information that might apply
1. You are under sixteen (16) years of age and looking for a job	A.
2. You are sixteen (16) and looking for a job	B.
3. You are applying for a job	C.
4. You are interviewing for a job	D.
5. You are working at the job	E.
6. You are getting paid for the job	F.
7. You are going to school and holding down a job at the same time	G.
8. You didn't get a job that you thought you should have had	H.
9. You get laid off from a job	I.
10. You get hurt while on a job	J.
11. You decide whether or not to take the job	K.
12. You are working and it is income tax time	L.

Additional Practical Information Regarding Employment

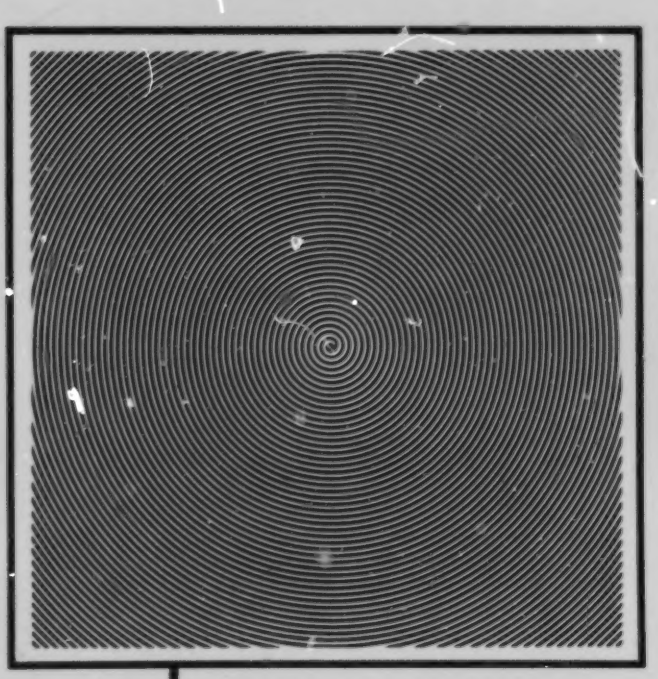
1. Making the application
   a. Answer all questions honestly and accurately, since false statements are grounds for termination at any time.
   b. Keep a copy of the completed application. Review it before the interview so that statements made during interview are consistent with information on the application.
   c. List all the last names you may have at some time so that they will coincide with references you may use. Where possible, it is also important to list the addresses of former places you have lived, particularly the address of the place you lived when you obtained your social security number.
2. Preparing and doing the interviews
   a. Get all the information you can about the job for which you are applying. Predetermined questions you may want to ask about the job: What skills will be necessary? What are the hours of employment? Is the employment fair, honest, and well regarded in the community? Will I be treated fairly? How many hours of work per week am I guaranteed? Under what circumstances may I be suspended from the job? What are the rules on attendance and smoking? Are there opportunities for advancement? Is there an opportunity for skill development? What problems does the employer have? shoplifting? employee theft? careless work? lack of supervision? etc.?
   b. Generally speaking, the employer should avoid questions which are not job related during an interview. If the employer should ask non-job related questions, the interviewee may go ahead and answer to get the job.
3. Getting information if the job is offered
   a. Be sure you have a clear understanding, preferably in writing, regarding your rate of pay and job description.

b. Ask for the rules regarding probationary periods, tardiness, absences, etc.

c. Write down all information about employer's rules, regulations, benefits, termination, and promotion procedures.

4. Equal opportunity possibilities

a. In 1964 Congress passed the Civil Rights Act of 1964. Its equal Employment Opportunities provisions *(Title VII)* forbids discrimination in hiring based on race, national origin, or religion. Discrimination on the basis of sex, was made illegal by amendments to the Civil Rights Act in 1972.



Youth - Business Rights and Responsibilities

YOUTH - BUSINESS RIGHTS AND RESPONSIBILITIES

Money and the Minor

1. Can a minor have a checking account in a bank?

Yes. A check is a written contract for the payment of money, and is subject to the laws relating to contracts.

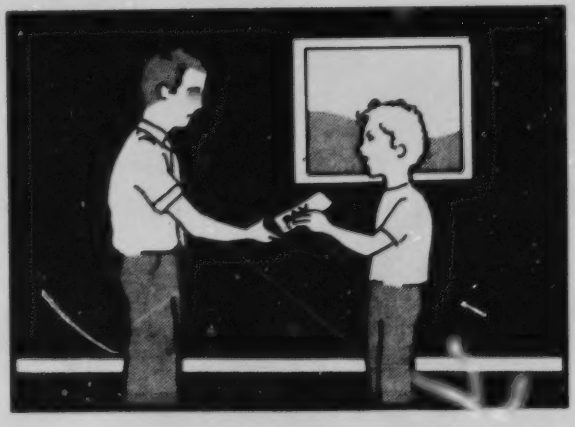
Oklahoma law *(15 O.S. 18)* provides that a minor may make a contract in the same manner as an adult, except that *(15 O.S. 17)* a minor may not give a delegation of power, nor make a contract relating to real property or personal property not in the minor's immediate possession.

A contract with a bank for a checking account is legal, but is subject to being disaffirmed by the minor either before reaching majority or within one year after reaching majority. Under disaffirmance the minor could declare the contract cancelled and ask for the return of the money.

Banks are not required to open a checking account for a minor. Regarding disaffirmance, the banks are only partly protected by law *(6 O.S. 903)* which provides that money paid from a minor's account to the minor and the minor's receipt of the money shall be a valid release which discharges the bank. Thus, if a minor writes a check to oneself on one's own bank account, the minor cannot disaffirm the check.

2. Can a minor manage the money which the youth earns?

Yes, subject to the laws relating to contracts made by minors Oklahoma law *(15 O.S. 18)* provides that a minor may make a contract in the same manner as an adult, subject only to the power of disaffirmance *(15 O.S. 19)*. These laws apply to personal property as money, which is in the possession of the minor.



A minor's contract relating to the youth's own money is voidable, meaning that, under some circumstances the minor may disaffirm the contract and have the money returned. Contracts for the purchase of necessities are among those that cannot be disaffirmed by a minor. For more information on disaffirmance see the section on contracts.

3. Is a minor's endorsement on a check valid?

Yes. Oklahoma law *(12A O.S. 3-207)* provides that even an infant may transfer a check by endorsement. However, except to a "holder in due course," the endorsement is subject to disaffirmance by the minor.

A "holder in due course" *(12A O.S. 3-302)* is a person who takes the instrument for value, and in good faith, and without notice of defects such as it being subject to disaffirmance by a minor.

4. Is a minor who writes a check liable if it "bounces?"

Yes, under certain circumstances. Liability will vary according to the circumstances of the case.

A "holder in due course" (see question 3) may hold the minor liable in most situations. However, if the minor who wrote the check is entirely without understanding and free of negligence, then possibly it may be considered that the contract is void. If the contract is void then the minor is not liable.

When the contract is voidable and subject to disaffirmance, a minor may be liable to a "holder in due course."

Contracts

5. What is a contract?

A contract *(15 O.S. 1)* is an agreement to do or not to do a certain thing. Sometimes this agreement may be made orally; it does not always have to be in writing.

6. How are contracts made?

For a contract to be made you must have *(15 O.S. 2)*:
" . . . (1) Parties capable of contracting, (2) Their consent, (3) A lawful object, and (4) Sufficient cause or consideration."

YOUTH - BUSINESS RIGHTS AND RESPONSIBILITIES

Generally, contracts are made when one person offers to do a lawful act, another person accepts the offer, and a sufficient consideration is exchanged between the parties to bind them to act in the agreed fashion.

Consideration is something which benefits the person receiving it, or is to the detriment of the person performing it.

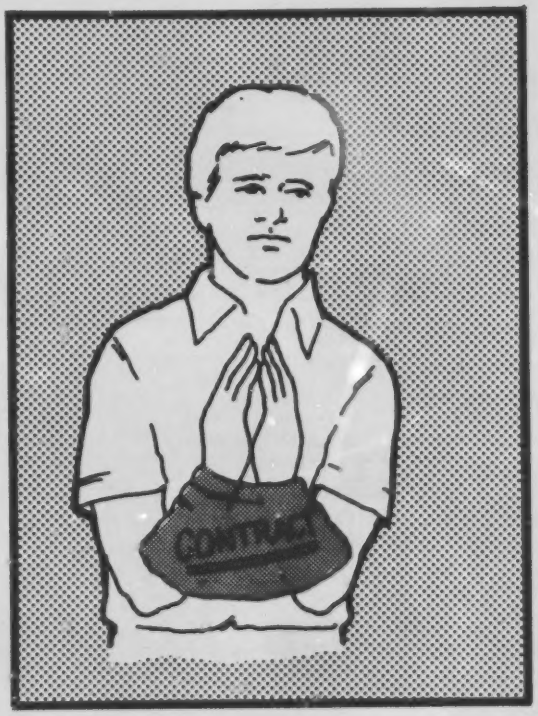
You may not make a legal contract to do something which is against the law.

7. Can a minor make a contract?

Generally, no. However, under some circumstances a minor may make a contract. (See the answer to the next question.)

A minor is a person under 18 years old *(15 O.S. 13)*.

8. Can a minor be forced to go through with a contract?



This depends upon the type of contract.

A minor has no legal capacity to enter into contracts except those which are specifically authorized, such as for the disposition of personal property under the youth's control, for necessities to support the minor or the youth's family, or for a loan of money to attend school. If the contract is otherwise valid, a minor may be forced to go through with a contract for any of these items.

For other types of contracts, a minor is allowed to disaffirm. In disaffirmance, the minor does not want to go through with the contract. A minor may disaffirm a contract *(15 O.S. 19)* either before reaching majority or within one year after reaching majority.

However, any sixteen (16)-to eighteen (18)-year-old who has paid for any repairing, supplying, or equipping on any type of a motor vehicle may disaffirm said contract "only by restoring the consideration to the party from whom it was received."

9. If a minor's age is misstated, is the youth still bound to a contract?

Generally, even though a minor's age is misstated, the same rules apply as described under the previous question.

However, if a minor fraudulently leads others into believing the youth is an adult, the court may find that the other party is entitled to recover the loss.

The contract may also be deemed to be valid and enforceable if after the contracting minor reaches the age of eighteen (18) and fails to disaffirm it or continues to accept the benefit of the contract.

10. What is meant by offer and acceptance?

An offer is a proposal to make a contract.

An acceptance is an agreement, whether by act or words, to comply with the terms of the offer.

11. Can a contract have an unlawful purpose?

No *(15 O.S. 104)*. An illegal contract is not enforceable.

YOUTH - BUSINESS RIGHTS AND RESPONSIBILITIES

12. Can a minor get back property sold by the youth?

This depends upon the type of contract. (See question 8.)

If the contract is one in which it is legal for a minor to make, then that minor may not get the property back.

If the contract is one which the minor may disaffirm, then the youth may exercise such right and ask for the return of the property. However, the minor may be required to return the consideration received in exchange for the property.

13. Do contracts have to be in writing?

Not necessarily. Oral contracts are generally valid *(15 O.S. 143)*.

However, the following types of contracts are invalid unless they are in writing and signed by the person against whom they are to be enforced *(15 O.S. 136)*:

- An agreement not to be performed within one year.
- A special promise to answer for the debt of another.
- An agreement to marry.
- An agreement for the leasing of a longer period than one year or for the sale of real property.

In some cases the requirement of writing may be waived if an oral contract has been substantially performed.

Use of Credit Cards

14. What can happen if I use somebody else's credit card with/without permission?

It is illegal to use someone else's credit card <u>without his permission</u> *(21 O.S. 1550.1)*. The amount of punishment varies according to the dollar amount of the card's improper use.

Also you can get into trouble for (1) taking a credit card without permission; (2) receiving, holding, or concealing a lost or mislaid credit card; (3) buying or selling a credit card; (4) falsely making a

credit card; (5) using a forged or revoked credit card; or (6) transporting a counterfeit, fictitious, altered, forged, lost stolen, or fraudulently obtained credit card in interstate commerce *(21 O.S. 1550.21 et. seq.* and *15 U.S. C. 1644)*.

Oklahoma and federal laws do not prohibit using someone else's credit card with permission. However, it is possible for the issuers of the credit cards to prohibit such use in their rules concerning use of their cards.

YOUTH - BUSINESS RIGHTS AND RESPONSIBILITIES

Learning Activity #1

Title: Laws and Responsibilities

Objective: Students will be able to associate responsibility with selected business and property laws.

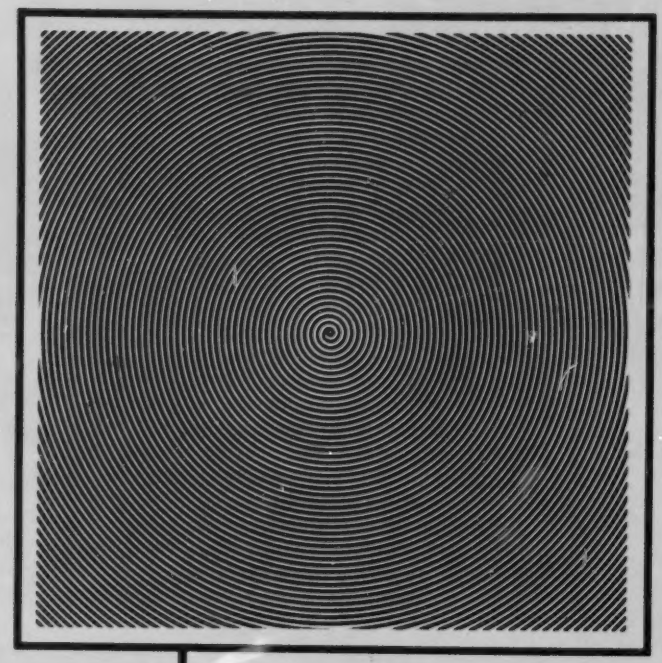
Approximate Time: 30 minutes

Materials: Questions and answers from section entitled "Youth -Business Rights and Responsibilities."

Directions: To the Teacher

1. Provide students with the section entitled "Youth - Business Rights and Responsibilities."
2. Tell students that the pages they have been given contain some information on questions asked by other youth regarding contracts and property rights.
3. Also, inform students that for most laws to work the individual has a responsibility which, if not carried out, makes the law less effective.
4. Divide the class into two equal groups. Tell them they have twelve minutes to identify as many responsibilities as possible from the pages provided. Each side may organize as they see fit to get the mission accomplished.
5. The side that has identified the most legitimate responsibilities at the end of the time period wins.
6. Discuss with the class.

Evaluation: The objective has been accomplished if, during discussion, students indicate an awareness of the responsibilities studied.



Youth and Property

YOUTH AND PROPERTY

"Minor" Defined

Generally, persons under eighteen (18) years of age are minors *(15 O.S. 13)*.

A person under eighteen (18)-years old may be determined and declared to be an adult for contract purposes. This would be done in District Court in a proceeding to Confer Rights of Majority *(10 O.S. 91 et seq)*. This procedure is used where it is necessary that a minor purchase or dispose of property or transact business in a general way. Here the minor is declared to be an adult for contract purposes only.

In criminal matters, persons under eighteen (18) normally are prosecuted under the Juvenile Code *(10 O.S. 1101 et seq)*. However, under certain circumstances the District Court may certify the minor as an adult for purposes of prosecution and punishment. Generally, the State must prove the act done by the minor is of a serious nature and that the minor has the sophistication and maturity to distinguish right from wrong.

Also there are certain serious offenses where a sixteen (16)-or seventeen (17)-year-old minor is considered to be an adult and prosecuted as such. These offenses include murder, kidnapping for the purpose of extortion, robbery with a dangerous weapon, rape in the second degree, the use of a firearm or other offensive weapons while committing a felony, arson in the first degree, burglary with explosives, shooting with intent to kill, manslaughter in the first degree, and non-consensual sodomy. However, the juvenile may make application to be prosecuted as a minor *(10 O.S. 1104.2)*.

Property Defined

Every kind of property that is not real property is personal property *(60 O.S. 9)*. The test usually is whether the property is land or immovable.

Real property usually is determined to be land, that which is affixed to land, that which is incidental or pertinent (related to) land, and that which is immovable by law *(60 O.S. 5)*.

For instance, regarding a farm, the land and a barn on the land would be real property. However, farm equipment such as broom corn slats or a tractor would be personal property.

Other items of personal property include certain intangibles such as good will of a business *(60 O.S. 315, 316)*, contract rights, a claim for personal injury or injury to property, and trademarks and patents *(60 O.S. 311 et seq)*.

Minors and Property

May a minor protect and keep property?

Yes, a minor may keep and protect property *(10 O.S. 8)*.

Although the child has a right to property and the parent has no control over it, the father or mother are entitled to an allowance for the support or education of said child from earnings of the child's property *(10 O.S. 5,7)*.

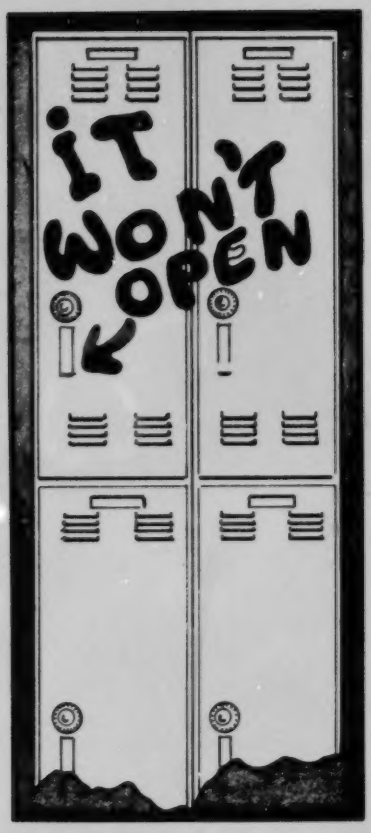
However, usually a child's property is protected through the use of a guardian. Here a guardian is nominated by the child or a third person and appointed by the court. The guardian of the child's property has a duty to take charge and control of the property and manage it for the benefit of the child. The guardian is required to give a bond to the court for faithful performance and to make an annual accounting to the court of the income, receipts, disbursements and other transactions of the minor's property *(58 O.S. 761 et seq)*.

For pertinent information as to what contracts a minor may make regarding property, see the answers to questions 7, 8 and 9 concerning contracts on pages 19, 20 and 21.

Who is responsible for the willful damage of property caused by a minor child?

Generally, children are responsible for their own torts (injury) or civil wrongs. However, insofar as negligence is concerned, a very young child, less than seven (7) years old, generally is held to be incapable of personal negligence or not be liable for injuries to a third person.

YOUTH AND PROPERTY



Parents may be liable for damages up to $1,500 where their minor child who is living with them commits any criminal or delinquent acts which result in bodily injury to a person or damage to property.

Larceny and Theft

1. What is larceny and theft?

In Oklahoma, larceny and theft have similar meanings. Larceny is taking another person's personal property using stealth or fraud with the intention of depriving the owner of that property *(21 O.S. 1701)*.

2. Is receiving stolen property a crime?

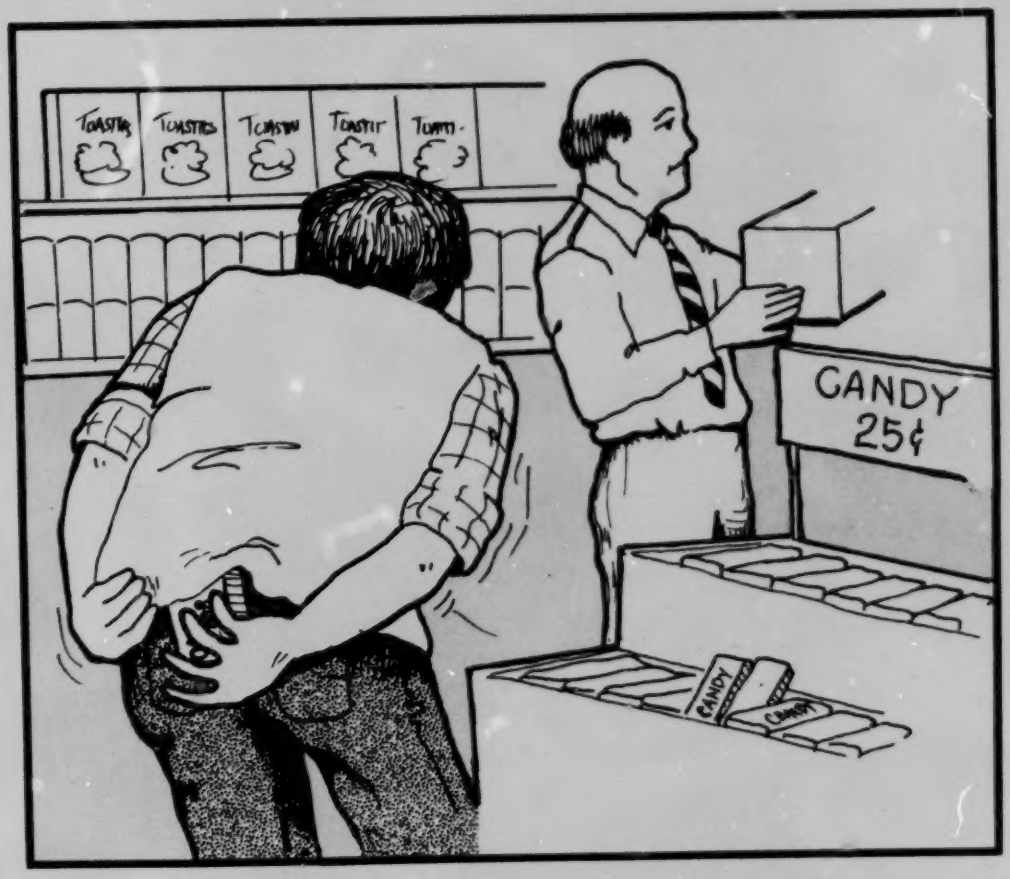
Yes, if the recipient knows the property has been stolen. This also applies if the recipient has reason to suspect that the property may be stolen.

Punishment may include time in the county jail or state penitentiary.

3. What is shoplifting?

In Oklahoma, shoplifting is stealing merchandise which is for sale in a retail or wholesale store.

Punishment can include time in the county jail or state penitentiary, or a monetary fine. The punishment depends upon the value of the property taken, and also upon whether the person charged has previously been convicted of shoplifting.

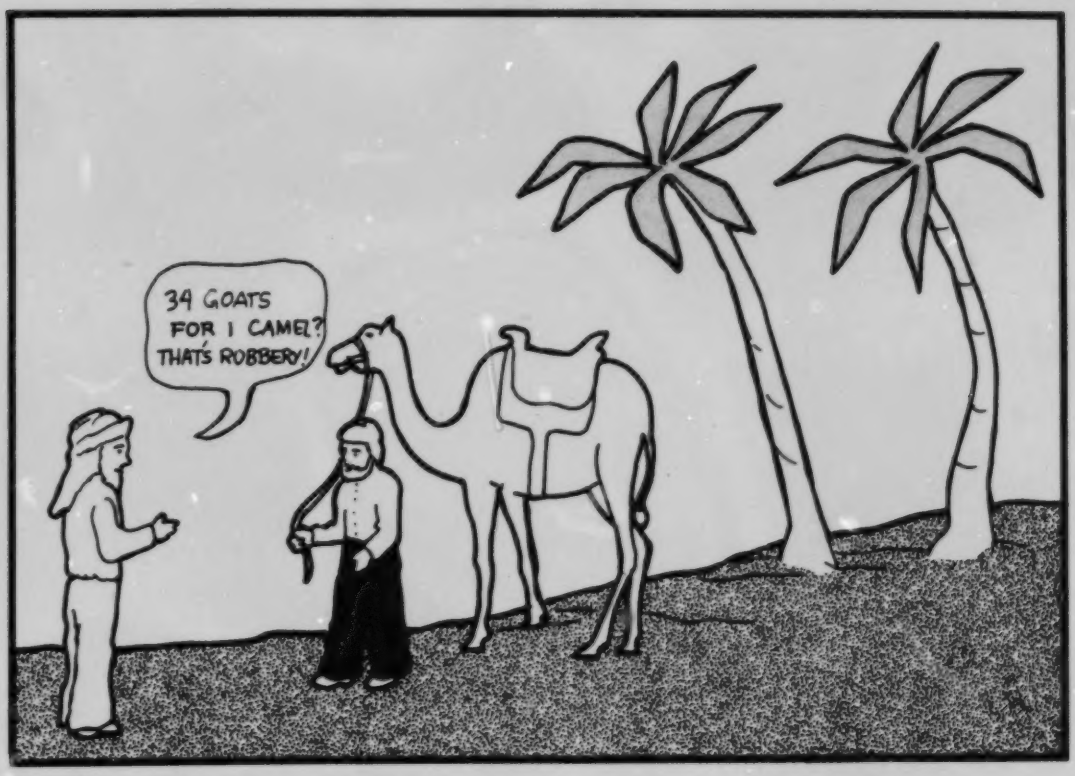


Embezzlement and Extortion

4. What is embezzlement?

Embezzlement is the wrongful taking of property by a person to whom the care of the property has been entrusted *(21 O.S. 1451)*.

YOUTH AND PROPERTY



5. What is extortion?

Extortion is wrongfully obtaining property from another person with one's consent. In extortion the consent is induced by the wrongful use of force or fear, or under the pretense of an official right to the property.

Blackmail is a type of extortion. Blackmail may be done orally or in writing. Here the blackmailer is attempting to wrongfully get another person to give up property belonging to that individual, or to get someone to commit an act unwillingly. Here the blackmailer threatens to reveal accusations of a crime or conduct which would disgrace the person accused.

Malicious Mischief and Vandalism

6. What is vandalism?

Vandalism is maliciously injuring, defacing or destroying property belonging to another person. Punishment varies depending upon the seriousness of the damage.

7. What is malicious mischief?

"Malicious mischief" is a general term which describes a wide range of crimes set out in Chapter 69 of Title 21 of the Oklahoma Statutes. It prohibits such crimes as obstructing highways, damaging telephone lines, defacing train signals, destroying crops and injuring fruit trees.

YOUTH AND PROPERTY

Trespass

8. What is trespass?

A trespass is willful or intentional entry onto property belonging to another person. You can also commit a trespass by using an instrument under your control to enter another's property.

9. Can you get in trouble for trespassing?

Yes, when such trespassing is specifically forbidden. If the owner or occupant of property expressly forbids you to enter his property and you trespass upon it, then you may be fined up to $25 *(21 O.S. 1835)*.

Owners or occupants of property may post signs prohibiting hunting or fishing. Hunters or persons fishing who trespass on this property can be fined $100 and/or jailed for 30 days *(29 O.S. 6-304)*.

10. Is party crashing legal?

No. You should not go to a private party to which you are not invited. Crashing a party could result in a variety of charges including trespassing, disturbing the peace, or breaking and entering.

Arson

11. What is arson?

Arson is willfully or intentionally burning property. Arson also is willfully or intentionally destroying property with the use of explosives.

Oklahoma law *(21 O.S.)* describes various degrees of the seriousness of arson depending upon whether the property is occupied, what type of property was burned, and whether the purpose was to defraud or cheat an insurer of the property.

Punishment for arson varies depending upon the case. Penalties may go as high as 35 years in prison and a $25,000 fine.

YOUTH AND PROPERTY

Burglary and Robbery

12. What is burglary?

Burglary in the first degree: This occurs when a person breaks into and enters the home of another person, while someone else is in the home, with the intention of committing a crime in that home.

Burglary in the second degree: This happens when a person breaks into and enters any building, vehicle or similar structure with the intention to steal property or to commit any felony.

13. What is robbery?

Robbery is the wrongful taking of personal property which belongs to another person. Here the property is taken from the owner himself or in his presence. It is taken against the owner's will and the property is taken by means of using force or fear *(21 O.S. 791)*.

Punishment can include a term in the state penitentiary.

YOUTH AND PROPERTY

Learning Activity #1

Title: Identify that Crime

Objective: Students will be able to associate the nature of crime with the name of a crime

Approximate Time: 30 - 45 minutes

Materials: Section entitled Youth and Property

Directions: To the teacher

1. List the following crimes on the board or on an overhead projector. Answers are: 1 - f, 2 - h, 3 - d, 4 - i, 5 - b, 6 - a, 7 - g, 8 - c, 9 - e. Ask students to write their definitions of each of the following crimes:

arson	robbery
burglary	shoplifting
embezzlement	theft
extortion	vandalism
larceny	

2. Give each student pp. 29-35 of this book.

3. Lead a class discussion comparing student definitions of the crimes with those given in the book.

Evaluation: Students should be able to match the name of the listed crimes with a definition of the crime as listed on the next page.

MATCHING TEST

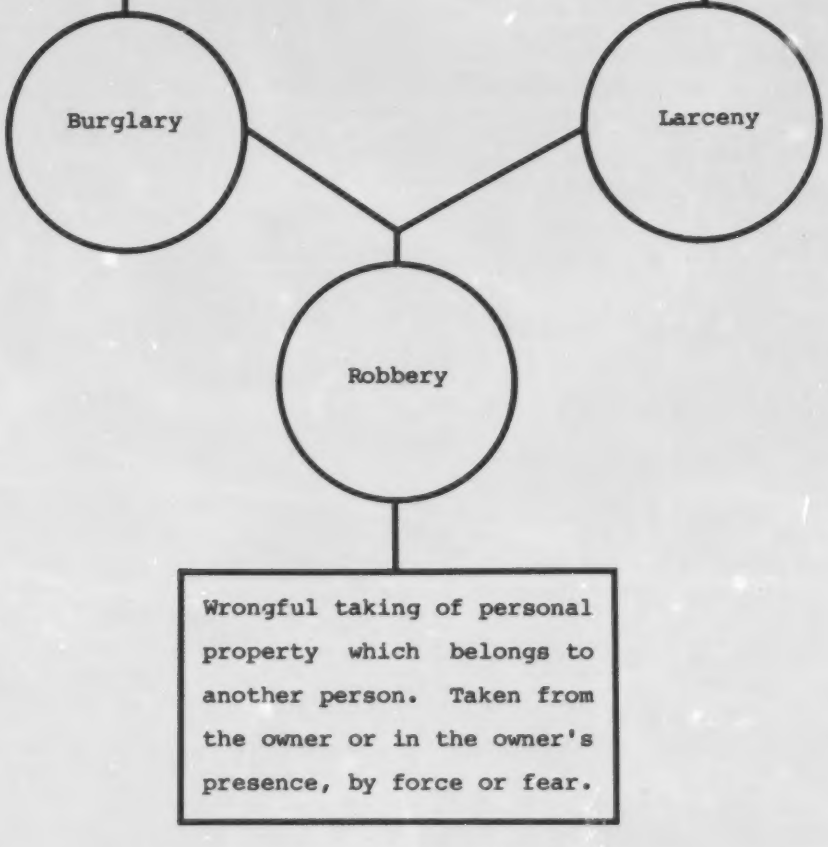
_____ 1.	is the wrongful taking by fear or force, of personal property which belongs to another person.	a. Arson
_____ 2.	is a general term that includes crimes as larceny, embezzlement, and taking property by fraud.	b. Burglary (1st degree)
_____ 3.	is wrongfully obtaining property from another person with consent	c. Embezzlement
_____ 4.	is maliciously injuring, defacing or destroying property belonging to another person	d. Extortion
_____ 5.	occurs when a person breaks into and enters the home of another person, while someone else is in the home, with the intention of committing a crime in that home.	e. Larceny
_____ 6.	is willfully or intentionally burning property or destroying property with the use of explosives.	f. Robbery
_____ 7.	is stealing merchandise which is for sale in a retail or wholesale store.	g. Shoplifting
_____ 8.	is the wrongful taking of property by a person to whom the care of the property has been entrusted.	h. Theft
_____ 9.	is taking without consent another person's personal property with the intention of keeping it.	i. Vandalism

Learning Activity #1

Identify That Crime (con't.)

Burglary - First Degree - breaking into and entering the home of another person, while someone is in the home, for purposes of committing a crime.
Second Degree - breaking into or entering into any building, vehicle, or similar structure with the intention to steal property or commit any felony.

Taking without consent another person's personal property by stealth or fraud with the intention of keeping it.



Wrongful taking of personal property which belongs to another person. Taken from the owner or in the owner's presence, by force or fear.

YOUTH AND PROPERTY

Learning Activity #2

Title: Name that Crime

Objective: Students will be able to associate a description of a crime with the name of a crime

Approximate Time: 30 min. (Activities 1 and 2 could both be done in 45 min.)

Materials: Section entitled Youth and Property

Directions: To the teacher

1. Review with students the section entitled Youth and Property, especially the information regarding legal definitions of crimes.

2. Have students read the descriptions of criminal activities presented on the two following pages. Students will then write the name of each crime in the spaces provided.

3. Lead class discussion comparing student answers with the answers given below:
   1 - Robbery, 2 - Extortion, 3 - Burglary, 2nd degree, 4 - Robbery, 5 - Robbery, 6 - Burglary, 1st Degree, 7 - Arson, 8 - Shoplifting, 9 - Embezzlement, 10 - Extortion.

Evaluation: The degree to which randomly selected students correctly associate the name of the crime with the situation during the discussion will be an excellent indicator of how well students have mastered this objective.

Learning Activity #2 Name that Crime (con't.)

CRIME SITUATIONS

Directions:

Read each situation carefully. Using the information obtained in the section entitled Youth and Property, you will determine which crime is occurring in each situation. Then put the name of the crime committed in the blank to the left of each situation. Some crimes may be used more than once.

_____ 1. Harry walked into a nearby convenience store, threatened the cashier, took $127.00 in cash and ran away.

_____ 2. Mary paid $150.00 to enroll in a small dancing school. When she went to her first session two weeks later, the dancing school had disappeared.

_____ 3. Denise and Joe went to the charity ball on Saturday night. Their enjoyment of the ball came to an abrupt halt when they arrived home and discovered that Denise's jewels had been stolen.

_____ 4. Amy's purse was stolen as she waited for the bus last night. A young man just grabbed her purse and ran.

_____ 5. The First City National Bank on Jenkins was held up at 3:00 p.m., Friday afternoon. Two teenagers wearing ski masks entered and pointed guns at frightened employees and customers. After shooting twice they grabbed their bags, now filled with money by the cashiers, and fled.

_____ 6. The Joneses placed presents under the Christmas tree before they went to bed. The next morning, they found that all of the gifts were stolen. The thief left only the decorated tree.

_____ 7. Tank told his friends that he set fire to Farmer Jones' barn three weeks ago.

_____ 8. Marvin worked at a department store. He occasionally took some of the merchandise home to his parents without paying for it.

_____ 9. L. M. leased a service station. According to the lease agreement, L. M. was to receipt all business transactions and pay the owner one percent of all such receipts. L. M. receipted only eighty percent of the business transactions and accordingly paid the owner one percent of the receipted business transactions.

_____10. Jeremy threatened to burn Steve's place of business if Steve did not pay him $50.00 every month.

YOUTH AND PROPERTY

Learning Activity #3

Title:	Judge That Crime
Objective:	Students will be able to judge the severity of a crime by its penalty and consequences
Approximate Time:	45 min. (Activities 1, 2, 3, should all be done in 90 minutes or less)
Materials:	Section entitled Youth and Property. Pages in this activity entitled "Judge That Crime"

Directions: To the Teacher

1. Review with the students the legal information contained in the section entitled Youth and Property.
2. Give them copies of the pages entitled "Judge That Crime."
3. With students working individually or in groups of three, have them write possible consequences (other than getting caught) that might happen to both the perpetrator and other persons in the crime incident.
4. Have them next complete the column entitled "Punishment you would impose."
5. If there is insufficient information in the book on "actual possible punishment," it is suggested that several students be assigned to interview someone from the district attorney's office, or a local attorney, for this information. Perhaps a better option would be to invite a local attorney as a resource person when students are doing this activity. Remember to give the resource person advance information regarding what you intend to do in the activity.

6. Give students an opportunity to discuss and share their response to each crime incident.

Evaluation: The objective has been acomplished if there is general awareness on the part .of students that there are personal consequences as well as court imposed punishments for crime.

CRIME SITUATIONS

Crime	Possible consequences to person perpetrating crime and to victim	Punishment you would impose	Actual possible punishment
1. J.L. falsely reports a bomb planted in a building 2. A.B. bought $500.00 worth of material with a credit card belonging to another person and without permission of the owner. 3. L.T. hunts on property posted "NO Hunting" and without the permission of the owner.			

Learning Activity #3 Judge that Crime (con't.)

Crime	Possible consequences to person perpetrating crime and to victim	Punishment you would impose	Actual possible punishment
4. V.P. was not invited to the party. He went but was not welcome. While there he got in an argument and caused some furniture to be broken.			
5. Z.D. broke into the school, destroyed school records and poured a gallon of paint over desks and walls.			
6. O.K. threatened with a knife the life of a 70-year-old woman until she gave him $100.00 from her purse.			
7. K.T. broke into and entered a house. Although the owners were home at the time she still con-			

Crime	Possible consequences to person perpetrating crime and to victim	Punishment you would impose	Actual possible punishment
fiscated a portable TV, silverware, and some valuable family heirlooms.			
8. C.V. intentionally left the Dillon store without paying for the $75.00 jacket he had taken from a hanger and was wearing under his topcoat.			
9. M.B. carries a knife to school. She uses the knife to threaten younger boys and girls to pay her $2.00 per week. She usually collects about $50.00 a week.			
10. Z.X. sells LSD to teenagers.			

YOUTH AND PROPERTY

Learning Activity #4

Title: Crime Statistics

Objective: Given data on 1980 juvenile crime rates in Oklahoma, students will analyze the data.

Approximate time: 30 - 45 minutes (activities 4, 5, 6 could be done as a unit during two 45-minute periods)

Materials: Page entitled Crime Statistics.
Optional: Crime in Oklahoma, Annual Report 1980, Oklahoma State Bureau of Investigation

Directions: To the teacher

1. Ask students to identify the crimes they think are most frequently committed by juveniles. Rank order the top six.
2. Provide each student with page entitled Crime Statistics.
3. Ask students to determine:
   a. How many people were arrested for all the crimes listed? What percentage were under age 18? or How many people were under 18?
   b. What were the six most frequently committed crimes by persons under age 18 in 1980? By persons 18 and over?
   c. What crimes are listed only for persons under age 18?
   d. What percent of each of the crime arrests for 1980 were committed by persons under 18? By persons 18 and over? (May be done as a class.)

4. Have students compare and discuss the statistical findings with their list of six most frequently committed crimes.

5. Discuss with students the implications of status offenses for persons under age 18.

Evaluation: Students should be able to discuss comparisons between crime rates, understand the meaning of status crimes, and make graphs, if desired by the teacher, comparing their ideas of crimes most frequently committed with the statistical data.

Learning Activity #4

Crime Statistics (con't.)

Classification of Offenses	Sex	Arrests 1980 10 & Under	11-12	13-14	15	16	17	18	19	20-29	30 & Over	Total Adult
Aggravated Assault	M	8	23	43	61	91	136	362	138	146	1428	1131	2843
	F	3	6	6	15	20	24	74	31	34	193	168	500
Other Assaults	M	70	32	72	60	143	133	510	191	164	1544	1213	312
	F	12	14	28	32	23	37	146	30	30	211	158	429
Burglary	M	211	214	573	561	638	857	3054	654	472	1878	574	3578
	F	17	16	33	41	40	34	181	27	33	136	45	241
Drug Abuse	M	2	8	50	133	304	442	939	733	713	4301	934	6681
	F	4	3	21	34	49	92	203	127	118	968	163	1376
Drunkenness	M	1	8	57	184	494	808	1552	1808	1898	19528	24150	47384
	F		1	20	35	77	108	241	196	227	1620	2208	4251
D.U.I.	M		1	5	37	201	418	662	991	1059	9483	11330	22863
	F			2	4	17	45	68	102	116	951	1230	2399
Disorderly Conduct	M	14	20	78	71	149	205	537	332	312	1935	1223	3802
	F	11	1	31	26	42	48	159	52	56	337	255	700
Larceny	M	202	251	555	443	600	690	2741	626	515	2214	1252	4607
	F	48	83	237	178	214	223	983	224	172	1017	721	2134
Violation of Liquor Laws	M		3	15	87	227	368	700	446	341	1942	1202	3931
	F		2	9	21	35	55	122	44	53	417	330	844
Motor Vehicle Theft	M	10	32	146	215	215	189	807	132	119	412	156	819
	F	2		18	25	22	19	86	6	5	41	17	69
Vandalism	M	126	115	184	132	167	153	877	102	68	314	113	597
	F	12	13	11	10	27	9	82	15	10	24	27	76
Robbery	M	1	2	11	25	53	54	146	111	102	496	206	915
	F			3	3	4	8	18	8	8	70	26	114
Murder	M	2			2	2	6	12	10	12	68	96	186
	F	1						1	2		29	18	49
Run-Aways	M	38	82	320	331	333	220	1324					
	F	18	70	537	559	472	269	1925					

Crime in Oklahoma, Annual Report, 1980, Oklahoma State Bureau of Investigation.

YOUTH AND PROPERTY

Learning Activity #5

Title:	The Crime Clock
Objective:	Given the 1980 crime clock data, students should be able to calculate the probability that they or their friends may be victims of crime within a time period.
Approximate Time:	30 - 45 minutes
Materials:	Pages entitled Crime Clocks Optional: Crime in Oklahoma, Annual Report 1980, Oklahoma State Bureau of Investigation

Directions: To the teacher

1. Distribute pages entitled Crime Clocks to the students and respond to questions they may have regarding this handout.

2. Instruct students to write the names of ten adults and/or peers who they consider friends.

3. Have students or groups of students calculate the probability that they or their friends could be the victims of a given crime within the week, month, or year. Calculations should be made on the basis of an Oklahoma population of 3,000,000 persons in 1980. (For junior high, solve math problems as a total class, or invite math teacher.)

4. Elect to have students consider some or all of the following discussion items.
   a. in what ways may the probabilities be in error?
   b. would the real probability be greater or less than the ones determined by the students? (Note: These are only reported crimes.)
   c. if one of the crimes was perpetrated against a friend, how might this affect you?

Learning Activity #6 The Crime Clock (con't.)

Evaluation: The discussion period should demonstrate an increased awareness on the part of students that crime may be more than a statistic. Caution - discussion may lead to anxiety among students - handle with care!

CRIME CLOCKS

1980

one
INDEX CRIME
every 3 min. 35 sec.

one
VIOLENT CRIME
every 42 min. 56 sec.

one
MURDER
every 29 hrs. 58 min. 46 sec.

one
FORCIBLE RAPE
every 8 hrs. 13 min. 57 sec.

one
ROBBERY
every 2 hrs. 50 min. 4 sec.

one
AGGRAVATED ASSAULT
every 1 hr. 7 min. 25 sec.

one
NONVIOLENT CRIME
every 3 min. 54 sec.

one
BURGLARY
every 10 min. 39 sec.

one
LARCENY–THEFT
every 7 min. 12 sec.

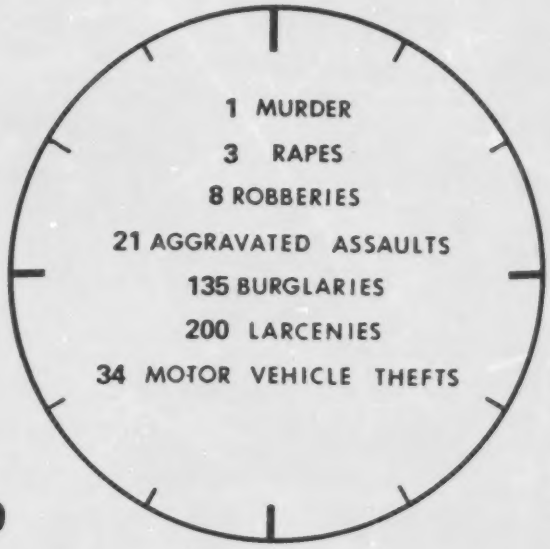
one
MOTOR VEHICLE THEFT
every 42 min. 49 sec.

The crime clock should be viewed with care. Being the most aggregate representation of UCR data, it is designed to convey the annual reported crime experience by showthe relative frequency of occurrence of the Index Offenses. This mode of display should not be taken to imply a regularity in the commission of the Part I Offenses; it represents the annual ration of crime to fixed time intervals.

CRIME CLOCKS

In each of the years shown below, Crime Index Offenses came to the attention of Oklahoma law enforcement every 24 hours as follows:

1980



1979

1978

*Figures above are rounded to the nearest whole.

YOUTH AND PROPERTY

Learning Activity #6

Title: The Victim

Objective: Students will express verbally or in writing a sense of what it means to be the victim of a crime.

Approximate time: 30 - 45 minutes

Materials: Two pages of statistics and crime stories, this activity.

Directions: To the Teacher

1. Provide students with the two pages of statistics this activity.
2. Divide students into groups of 3 or 4 students each
   a. Group one will total the value of property stolen during 1980 and calculate the cost to each person in Oklahoma based on 3,000,000 population.
   b. Group two will provide to other members of the class some possible reasons why the amount stolen some months is higher than the total amount stolen other months.
   c. Group three will provide to other members of the class some reasons why they think the percent recovered of some items was greater than that of other items.
   d. Two other groups will each take one of the victim's stories found in this activity. After reading and discussing the assigned story, a given group may elect to role-play the story, as follows, to other members of the class:
      ...victim is recounting what happened and how he/she felt about what happened to a best friend
      ...victim is reporting the crime to the police
      ...victim is in court on the witness stand being questioned by an attorney.

Evaluation: When writing a paragraph entitled "I Was the Victim" students will reveal a sensitivity to the trauma of being a victim.

Learning Activity #6

The Victim (con't.)

MONTHLY VALUE OF PROPERTY STOLEN BY TYPE -- 1980

TYPE OF PROPERTY	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE
Currency	$ 368,116	$ 486,236	$ 401,682	$ 634,897	$ 544,651	$ 498,840
Jewelry	$ 877,575	$1,026,214	$1,387,777	$2,346,401	$ 738,166	$ 1,070,873
Furs/Clothing	$ 158,711	$ 146,918	$ 164,163	$ 138,161	$ 115,958	$ 107,598
Motor Vehicles	$2,936,314	$2,387,186	$2,599,621	$2,620,542	$2,694,062	$ 2,741,515
Office Equipment	$ 47,725	$ 67,493	$ 61,275	$ 64,059	$ 50,875	$ 43,412
Television, Radio, Etc.	$ 904,030	$ 737,174	$ 773,488	$ 696,333	$ 779,273	$ 802,901
Firearms	$ 202,305	$ 208,639	$ 216,351	$ 197,410	$ 210,494	$ 167,892
Household Items	$ 333,947	$ 289,031	$ 432,567	$ 450,317	$ 285,916	$ 457,942
Consumer Items	$ 81,039	$ 98,838	$ 177,134	$ 169,162	$ 196,406	$ 77,289
Livestock	$ 168,763	$ 126,087	$ 80,109	$ 77,909	$ 57,884	$ 92,424
Miscellaneous	$1,957,452	$1,960,272	$2,440,745	$2,208,945	$2,281,018	$ 2,478,790
TOTAL	$8,035,977	$7,534,088	$8,734,912	$9,604,136	$7,954,703	$ 8,539,476

TYPE OF PROPERTY	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER
Currency	$ 593,613	$ 463,040	$ 582,158	$ 555,093	$ 437,494	$ 599,721
Jewelry	$1,246,021	$1,239,985	$1,340,566	$1,417,937	$1,219,174	$ 1,660,156
Furs/Clothing	$ 94,129	$ 213,994	$ 138,952	$ 159,207	$ 214,236	$ 299,995
Motor Vehicles	$3,114,506	$3,642,854	$3,125,078	$2,590,260	$2,861,724	$ 3,036,856
Office Equipment	$ 75,509	$ 118,099	$ 103,505	$ 81,827	$ 70,360	$ 97,583
Television, Radio, Etc.	$ 876,384	$ 868,521	$ 751,284	$ 783,318	$ 794,437	$ 1,036,588
Firearms	$ 244,818	$ 224,548	$ 234,095	$ 208,518	$ 238,283	$ 326,616
Household Items	$ 270,217	$ 487,862	$ 329,298	$ 351,278	$ 321,329	$ 494,956
Consumer Items	$ 196,042	$ 161,246	$ 73,282	$ 88,585	$ 89,618	$ 89,854
Livestock	$ 80,225	$ 54,814	$ 112,976	$ 109,489	$ 177,556	$ 225,628
Miscellaneous	$2,376,477	$2,290,635	$2,545,722	$2,194,834	$2,246,550	$ 2,827,144
TOTAL	$9,367,914	$9,765,598	$9,336,916	$8,540,346	$8,670,761	$10,695,097

Crime in Oklahoma, Annual Report, 1980, Oklahoma State Bureau of Investigation.

PROPERTY STOLEN - RECOVERED 1980

TYPE OF PROPERTY	STOLEN	% DISTRIBUTION STOLEN	RECOVERED	% DISTRIBUTION RECOVERED
Currency	$ 6,165,547	5.8%	$ 1,704,609	5.3%
Jewelry	$ 15,570,845	14.6%	$ 3,977,421	12.3%
Furs/Clothing	$ 1,952,022	1.8%	$ 300,208	.9%
Motor Vehicles	$ 34,350,518	32.2%	$21,478,552	66.5%
Office Equipment	$ 881,722	.8%	$ 106,490	.3%
Television, Radio, Etc.	$ 9,803,731	9.2%	$ 777,941	2.4%
Firearms	$ 2,679,969	2.5%	$ 314,378	1.0%
Household Items	$ 4,704,660	4.4%	$ 323,419	1.0%
Consumer Items	$ 1,498,495	1.4%	$ 438,085	1.4%
Livestock	$ 1,363,864	1.3%	$ 222,816	.7%
Miscellaneous	$ 24,808,584	26.0%	$ 2,644,735	8.2%
TOTAL	$106,779,951	100.0%	$32,288,654	100.0%

PERCENT RECOVERED

Currency	Jewelry	Furs & Clothing	Motor Vehicles	Office Equip.	Radio, TV, Etc.	Firearms	Household Items	Consumer Items	Live-Stock	Misc.	Total
27.5%	25.5%	15.4%	62.5%	12.1%	7.9%	11.7%	6.9%	29.2%	16.4%	9.5%	30.2%

Crime in Oklahoma, Annual Report, 1980, Oklahoma State Bureau of Investigation.

Victim Stories

The Robbery Victim

I was born in North Carolina. At age 20 I decided to go to Washington, D.C. in search of a better job.

I only had an eighth grade education and the best job I could get was that of a handyman in a hotel. This paid better than the jobs I previously had as a farm worker. I worked hard and managed to save some money. I married and had two children. We were happy living in D.C.

One night in 1972 a terrible thing happened which was to change my life forever. It was during the Thanksgiving season. At about 8:00 p.m., while waiting for a bus, I was attacked by a several teenaged street robbers.

They came up to me and demanded money. I did not resist but started to reach into my pockets to give them the $3.00 I carried. As I started to get the money the robbers began to beat me up. Evidently they thought I was reaching for a gun.

I was beaten to the ground, kicked and stomped. One of the robbers broke a pop bottle and then rammed the jagged edge into my eye. I have never felt such excruciating pain.

I was already blind in one eye. The eye hit by the bottle was my one good eye. When I woke up in the hospital there was only darkness. Despite two operations the eye specialist finally told me I would be totally blind.

I moved back to North Carolina with my wife and family. We draw $530.00 a month disability allowance. At age 29 I feel my life has come to a bitter end.

The Burglary Victim

I was born in Oklahoma. As soon as I reached age eighteen (18) I decided to move into my own apartment.

I thought this is the life. I now had freedom to make my own decisions. I could come and go as I liked. My job paid well and I had accumulated some nice clothes and jewelry. I also had many cherished personal possessions such as letters, pictures, a diary, etc.

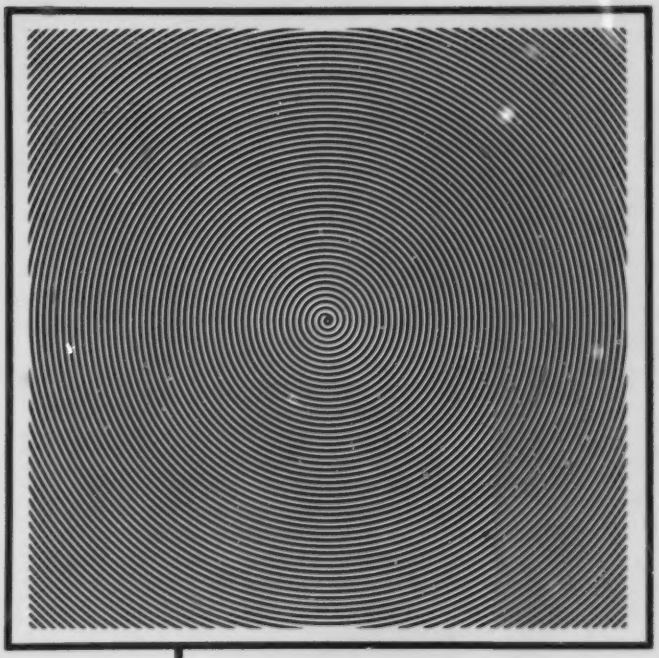
One night approximately six months after I moved to the apartment I went Christmas shopping with several of my girl friends. After finishing the shopping we went to a club where we had something to eat and danced. All in all it was an enjoyable evening.

I returned home about 1:00 a.m. As soon as I entered my apartment and turned on the light I knew something was wrong. My TV set was missing. Some dinnerware lay broken on the floor.

Frightened and dumbfounded I went to the bedroom. I couldn't believe the mess. Dresser drawers were open. Clothes were scattered everywhere. Personal letters were lying opened on the floor. My diary was missing. Many cherished pictures had been mutilated.

Further investigation revealed that some of my prized dresses and jewelry had been taken.

Having my own apartment is no longer fun. Even after washing or dry cleaning all my clothes I feel violated. I am haunted by the fact that my personal diary is possibly being shared with other unknown people. I fear every time I enter my apartment.



Youth and School

YOUTH AND SCHOOL

"Truancy" Defined

1. What happens if I am truant?

When a minor is between seven (7) and eighteen (18) years of age, and has not completed four years of high school, his parent, guardian, custodian, or other person in control must compel the minor to attend school *(70 O.S. 10-105)*. Also a child between sixteen (16) and eighteen (18) years, who has not finished four years of high school is in violation of the law if neglecting or refusing to attend school. Following are the exceptions to these rules:

a. If the child is prevented from attending school by some mental or physical disability, which has been certified by a physician.

b. If any child is excused from attendance at school due to an emergency. Here the principle teacher must excuse that child at the request of a parent or other person having control of the child.

c. A sixteen (16)-year old child may be excused from attending school by a written joint agreement between the school and parent or guardian. Here the agreement must be in the best interest of the child and the community, and the youth must be under the supervision of the parent or guardian.

If any parent, guardian, child or other person violates these laws, that individual will be subjected to a fine which is levied at a progressive rate. The first offense is $5 to $25. The second offense is $10 to $50. Subsequent offenses are $25 to $100. Each day of school which is missed constitutes a separate offense.

2. What can happen to me if I refuse to attend school?

"A child in need of supervision" is one who is willfully and voluntarily absent from school for 15 or more days or parts of days within a semester or for 4 or more days or parts of days within a four-week period without a valid excuse *(10 O.S. 1101)*.

If the State files a petition alleging facts sufficient for the Court to find that the child is in need of supervision, the child can be taken into custody and temporarily detained. Here, depending upon the facts, the child either can be released to the custody of his parents or kept in juvenile custody. If a child is adjudged by the Court to be in need of supervision, the Court can make the child a ward of the Court and place the child under supervision of the Court or someone appointed by the Court.

The Law and Corporal Punishment

3. Can I refuse corporal punishment?

In most instances, a student in school cannot refuse to accept corporal punishment from his teacher, if this is the only punishment available for the violation.

YOUTH AND SCHOOL

Following are some laws applying to this situation: Any parent or other person who willfully or maliciously injures, tortures, maims or uses unreasonable force upon a child under eighteen (18) years shall be punished by imprisonment or a fine of up to $500 *(21 O.S. 843)*. However, nothing in this law prohibits a parent, teacher or other person from using ordinary force as a means of discipline, including but not limited to spankings, switching, or paddling *(21 O.S. 844)*. A teacher shall have the same right as a parent or guardian to control and discipline a child during the time the child is in attendance or in transit to or from the school or any school function authorized by the school district or in a classroom presided over by a teacher *(70 O.S. 6-114)*.

In other words, state law provides that school teachers may use corporal punishment as a form of discipline, so long as it is used appropriately and moderately and is applicable to the situation involved.

Most school districts have codes of conduct that have been prescribed by the Board of Education, which list certain actions which can result in the use of corporal punishment. In most instances, there are alternatives to corporal punishment. Generally, here the courts will not interfere as long as the punishment is applicable to the violation. If a child suffers from a physical disability (certified by a physician) which merits excusing him from corporal punishment, then he could refuse corporal punishment and accept an alternative punishment. Otherwise, if the school rules are not arbitrary or discriminatory, a student would not have the right to completely refuse corporal punishment, if that was the only punishment prescribed for his violation.

Suspension from School

4. For what reasons can I be suspended from school?

Any pupil who is guilty of immorality or who violates the rules of a public school may be suspended *(70 O.S. 24-101)*. Any suspension may not go past the current semester and the following semester.

A student who is suspended has the right to appeal to the Board of Education for the school district.

5. What rights do I have in a suspension proceeding?

Under Oklahoma law *(70 O.S. 24-101)* any student who is guilty of immorality or a violation of public school rules may be suspended by the principal of the school. Here the suspension may not be longer than the current school semester and the following semester.

If a student has been suspended from school the pupil has a right to appeal the decision to the Board of Education. The Board fully investigates the matter and then decides the student's guilt or innocence. The Board's decision is final.

6. Can I be suspended from school for demonstrating or protesting?

Whether or not a student can be suspended from school for demonstrating or protesting depends upon the individual case. The courts have ruled both ways as to whether or not a student could be suspended. Among other things to be considered is whether or not any immorality occurred or school rules were broken during the demonstration or protest.

YOUTH AND SCHOOL

Learning Activity #1

Title: What do you Think About School Laws?

Objective: Students will become more aware of laws that affect their school attendance.

Approximate time: 20 minutes

Materials: Pages this activity.

Directions: To the teacher

1. Write the two following questions on the chalkboard:
   a. Do you think people should have to go to school until they graduate from high school or are 18 years of age?
      Yes, because _____
      No, because _____
   b. Do you think the rights students have while in junior/senior high school are what they should be?
      Yes, because _____
      No, because _____

2. Tell students to think about question (a) and to arrive at a decision and a reason for that decision.

3. Ask students who have arrived at a yes decision to line up on one side of the room while those who have arrived at a no decision to line up on the other.

4. First have a student on the yes side give reasons for being on that side. Next, have a person on the no side repeat the essence of what the previous yes person said and then give a no reason.

Continue this process until all students have had an opportunity to give their reasons. (Note: If students begin to repeat former stated reasons, you may stop the process and ask for new reasons only.)

5. Repeat the same process with question (b).

Evaluation: If the student responses generally indicate an awareness of the need for school rules and regulations, the objective has been accomplished.

YOUTH AND SCHOOL

Learning Activity #2

Title:	The Law Says...
Objective:	Students will become more aware of Oklahoma laws that affect their attendance in school.
Approximate Time:	25 minutes
Materials:	Question and Answer section entitled Youth and School

Directions: To the Teacher

1. Provide students with Youth and School question and answer section.

2. Assign one question and answer from these pages to each group of three students. Give each group a number.

3. Allow ten minutes for students to formulate an answer, consistent with the answers on their handouts. The answer should be in their own words.

4. While students are preparing their responses write on the chalkboard these column headings: Group number, Listening Accuracy, Clarity of Response, Accuracy of Response.

5. When ten minutes have expired randomly select a group to give a response in their own words to the question assigned them. The order of responses should be the statement of question and the answer to the question. Write the groups number under the group number column and record a grade under the other columns. (Note: the first group to respond will not have a grade under listening accuracy.)

6. After the first group has responded randomly, select a second group. One student will restate the question of the previous group, another will restate the previous group's response while a third student will state the question and response assigned to his/her group.

7. Record group number and grades under the other columns.

Evaluation: Student evaluations will be determined by how well they listen as well as how well they summarize and state an answer in their own words.

YOUTH AND SCHOOL

Learning Activity #3

Title: Compulsory Education - Why or Why Not?

Objective: Students should be able to list factors in favor of and against compulsory education and to formulate an opinion based on a consideration of these factors.

Approximate Time: 30 minutes

Materials: Pages contained in this learning activity.

Directions: To the Teacher

1. Divide the class into groups of three students each.

2. Ask groups composing one-half the class to list all the reasons they can think of in favor of compulsory education - the other half all the reasons against compulsory education.

3. Give the students the page entitled "Pros and Cons of Compulsory Education."

4. Write on the chalkboard "For Compulsory Education" and "Against Compulsory Education" at the top of two separate columns.

5. Allow each group to report its reasons for or against compulsory education.

6. Tabulate the reasons as reported in the proper column.

7. Give students the opportunity to vote for or against compulsory education after groups have all reported.

Evaluation: A random sampling of students regarding how they voted and why they voted a certain way should indicate a consistency between their reasons and their decisions.

Pros and Cons

Compulsory Education

For Compulsory Education - America has become a great nation because of its education system. For generations, the schools have brought together the children of the rich and powerful with the poor and helpless. Schools can provide equal opportunity for everyone. We shouldn't change something that has worked so well for so long.

Requiring all youngsters to go to school insures that they will all have a chance to learn about the American way of life. Without a common set of values and a shared heritage a society collapses.

Our system of democracy rests on the shoulders of an informed electorate. A nation of illiterates cannot be self-governing. Everyone needs to learn basic skills and lessons in democracy. Otherwise, they will be guided by prejudice and lies rather than truth. If the people cannot govern themselves, a dictator will rise up to lead them.

With all constitutional rights come responsibilities. Until they finish high school, most students are not ready for either the right or responsibility of an adult's liberty. Many laws protect youths from dangers--including their own poor judgment. Education is so important that minors must not be allowed to waste their one big chance to get it.

In the long run, letting students leave school would cost a lot of money. Sure, we might save a few dollars on teachers' salaries or textbooks and reduced vandalism. In a short time, though, we'll be paying much more for welfare and other social services. People without high school diplomas are less likely to get jobs and more inclined to break the law. Keeping people in jail costs a lot more than keeping them in school.

Most importantly, a person with little education and few skills will probably regret having dropped out of school.

Learning Activity #3 No More School! (con't.)

Against Compulsory Education - Requiring students to remain in school against their will is unfair. In a land of freedom, only prisoners should be forced to stay in a place where they don't want to be. Since students haven't broken the law, they shouldn't be treated like criminals.

The Constitution guarantees liberty for all citizens. Students under 18 years old are still American citizens. Therefore, they should be given their liberty and allowed to decide for themselves whether they will stay in school.

Compulsory education is unconstitutional because it forces thought control on people. The guiding principle of the Constitution is the right of people to be themselves. Schools try to make students all alike by requiring them to take certain subjects and learn the "proper" way of living. Even private schools are regulated by the state.

Making everyone go to school until they reach 18 or graduate wastes taxpayers' money. You can't teach anything to a person who doesn't want to learn, so why bother trying? Schools can't afford to throw money away on people who don't want to be in class.

Many of the students who vandalize the schools and start fights would leave school if they could. Keeping them in school exposes the good students and teachers to unnecessary risk of injury.

Depriving students of their constitutional rights is especially unfair because they can't do anything about it. Hardly anyone in school has the right to vote. Since students can't vote, the politicians have ignored them. The time has come for a change.

(Taken from The Bill of Rights in Action Newsletter, Supreme Court Highlights 1980-81, published by the Constitutional Rights Foundation, 1510 Cotner Avenue, Los Angeles, Calif. 90025)

YOUTH AND SCHOOL

Learning Activity #4

Title: Time for Action

Objective: Students should be able to formulate a plan of action to bring about change in our laws on one hand and to retain our laws on the other.

Approximate Time: 45 minutes

Materials: Pages contained in this learning activity.

Directions: To the Teacher

1. Tell your students that this activity is conditioned on the assumption that there is a strong move under way to change the compulsory education law in the State of Oklahoma.

2. Organize your students into four groups. Group one - citizens advocating change; group two - citizens opposing change; group three - members of the Legislature; and group four - members of the Supreme Court.

3. Have each group formulate written answers and responses to the items listed under their group.
   a. Citizens Advocating Change - how would you challenge the compulsory education law of Oklahoma? How would you organize support? Who would most likely support you? To whom would you go to get the law changed - the Supreme Court or the Legislature? What arguments would be most effective in your judgment?
   b. Citizens Opposing Change - how would you defend compulsory education before the Legislature, the Court? How would you conduct a campaign opposing the change? What groups do you think would support you? What strategies would you use to gain public support?

c. Members of the Legislature - what arguments would influence your decision? Which would influence you most--the opinion of parents or students? Would you accept a compromise, if so, what compromise? Would you change your vote if you thought a majority of the citizens favored what you thought was right?

d. Members of the Supreme Court - what arguments would influence your decision? Would you hear the case? Why or why not? On what factors would you probably base your decision? Would public pressure one way or the other affect your decision?

4. If time permits, advocates and opponents could present their case to the Legislature and Supreme Court. These two groups could then reach decisions on the issues and declare the basis for their decision.

Evaluation: Written responses to the questions addressed to each group should reveal the degree to which the group comprehends some of the political elements of change.

YOUTH AND SCHOOL

Learning Activity #5

Topic:	Seek and Find
Objective:	Students will know significant court cases, Bill of Rights Amendments and legal principles that determine the boundaries of their rights and responsibilities in school.
Approximate Time:	30 minutes
Materials:	Pages entitled Court Cases-Laws-Legal Principles included in this activity.

Directions: To the Teacher

1. Give students the pages entitled Court Cases, Laws, Legal Principles. Inform students that these are laws, court cases and legal principles which help define their rights and responsibilities while attending school. (Note: most of these rights extend beyond school--however, the topic of interest here is school.)

2. After students have had an opportunity to review these laws and cases tell them you are going to read a statement which matches with a law, court case or legal principle on their handout. When students locate the proper response they should raise their hand, state the name of the law or court case and read what it says.

3. (Optional) An alternative to step 2 is to assign a law, court case, legal principle to individual students. Assign each of the statements to other students. Students should identify themselves by writing their law, or statement in large print on a sheet of paper which they can tape to their clothes, desk or the wall. Students with the laws will take stationary positions around the room. Students with the statements will match with the proper law, legal principles or court case. After all students have properly matched,

each pair (group) should be prepared to state to the rest of the class in their own words the essential meaning of their law or legal principle.

4. Statements:
   a. administrators and educators have a right to administer corporal punishment even though the parents object to such punishment;
   b. cruel and unusual punishment may not be inflicted;
   c. school authorities may inspect lockers;
   d. state cannot deprive person of life, liberty or property without due process of law;
   e. teacher shall have same right as parent;
   f. due process of law procedures apply to suspensions up to ten days;
   g. schools have an obligation to maintain discipline over the student;
   h. neither teachers nor students shed their constitutional rights to freedom of speech or expression at the schoolhouse gate;
   i. corporal punishment is not in violation of the Eighth Amendment to the Constitution;
   j. people have a right to not have unreasonable searches or seizures as it applies to their person, houses, papers or effects;
   k. parents have a responsibility to see that a child attends school;
   l. spanking, switching of student not prohibited;
   m. student cannot be deprived of freedom of speech without due process of law;
   n. student lockers are not protected by the Fourth Amendment;
   o. corporal punishment is not in violation of the Eight Amentment.

Evaluation: Students have accomplished this objective if a majority of students indicate through discussion a knowledge of the court cases and laws that govern their rights in the school.

Court Cases-Laws-Legal Principles

1. Ingraham v. Wright, 97 S.Ct. 1401 (1977). This case came from Dade County, Florida where two students, in 1970, were subjected to alleged abuse of corporal punishment.
   a. Was the use of corporal punishment in violation of the Eighth Amendment to the Constitution?
   b. Is some type of procedural due process required before a teacher or other disciplinarian can administer corporal punishment?

   Basically the Supreme Court said that corporal punishment is not in violation of the Eighth Amendment nor does it require a formal due process hearing, although an informal investigation of facts was encouraged. The Court held that protection under the Eighth Amendment applied to convicted felons.

2. Baker v. Owen, 395 F. Supp. 294 (MD.N.C.) (1975) aff'd 423 U.S. 907 (1976). A case tried in North Carolina. A mother raised the question of whether the school could use corporal punishment to discipline her child if she objected to such punishment. The court upheld the lower court ruling that the school did have this right.

   In ruling on this case the Court also provided for the following informal due process when corporal punishment is administered:
   1. Corporal punishment, generally, should not be used in a first offense situation.
   2. The students should be aware of what misbehavior could lead to corporal punishment.
   3. Another adult witness should be present during the administration of corporal punishment.

4. The student should be told (in front of the adult witness) the reason for the punishment.
5. Upon request, the disciplinarian should inform the student's parents of the reasons for such punishment.

3. Title 70, Section 6-114, Oklahoma Statutes 1971. The teacher of a child attending a public school shall have the same right as a parent or guardian to control and discipline such child during the time the child is in attendance or in transit to or from the school or any other school function authorized by the school district or classroom presided over by a teacher.

4. Title 21, Sections 843 and 844. Any parent or other person who shall willfully or maliciously beat or injure, torture, maim, or use unreasonable force upon a child under the age of 17...shall be punished...provided, however, that nothing contained in this Act shall prohibit any parent, teacher or other person using ordinary force as a means of discipline, including but not limited to spanking, switching, or paddling. 21-834-44

5. Amendment 14 to the United States Constitution. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

6. Goss v. Lopez, 419 U.S. 565 (1975). A case before the Supreme Court involving nine students of the Columbus, Ohio School System who had been suspended for ten days. They had been given no hearing prior to the suspension.

The students charged that the school district, by failing to provide a hearing, prior to the ten-day suspension, violated that part of the 14th Amendment which says that a state cannot deprive a person of life, liberty, or property without due process of law.

The Court ruled that the due process of law procedures apply to suspensions of up to ten days and at a minimum students faced with temporary suspension of ten days or less should:

a. be given oral or written notice of the charges against them.

b. if charges are denied by the student, an explanation should be given of the evidence the authorities have.

7. Tinker v. Des Moines Independent Community School District, 393 U.S. 503. In 1965 two Tinker children John (15), Mary (13), and Christopher Eckhart (16) decided to wear black armbands to school to express their support for a truce in the Vietnam War.

Two days before the students wore their armbands to school the principals, hearing what was going to happen, made a rule that anybody found wearing a black armband would be sent home.

When the three students arrived at school, wearing their armbands they were sent home.

The Tinker parents filed a complaint in U. S. District Court asking for an injunction restraining the school principals from enforcing the new regulation.

Eventually the case went to the U. S. Supreme Court. The issue was: Can students be deprived in their First Amendment right to freedom of speech without due process of law? The Court ruled in favor of the Tinkers. Justice Fortas wrote the opinion. Following are excerpts: "In our system, state-operated schools may not be enclaves of totalitarianism. School officials do not possess absolute authority over their students. Students in school as well as out of school are 'persons' under our Constitution. They are possessed of fundamental rights which the State must respect, just as they themselves must respect their obligations to the State. In our system, students may not be regarded as closed-circuit recipients of only that which the State chooses to

communicate. They may not be confined to the expression of those sentiments that are officially approved. In the absence of a specific showing of constitutionally valid reasons to regulate their speech, students are entitled to freedom of expression of their views. ...students may exercise these rights only so long as their expression does not 'materially and substantially interfere with the requirements of appropriate discipline in the operation of the school.'"

8. Amendment 4 to the U.S. Constitution. "The right of the people to be secure in their persons, houses, papers, and effects, against unreasonble searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

9. State of Kansas v. Stein, 456 P. 2d. 1, 203 Kan. 638 (1969). A student was believed to have stolen goods in his locker. Police officers searched the locker with the consent of the principal and student. A key found in the locker led to the evidence responsible for the student's conviction. The student appealed the conviction claiming that he should have been warned about his legal rights and that the principal had no right to open the locker for the police. The Supreme Court of Kansas ruled in favor of the principal.

The Court Stated: "Although a student may have control of his school locker as against fellow students, his possession is not exclusive against the school and its officials. A school does not supply its students with lockers for illicit use in harboring pilfered property or harmful substances. We deem it a proper function of school authorities to inspect the lockers under their control and to prevent their use in illicit ways or for illegal purposes.

10. People v. Overton, 229 N.E.2d. 596, 20 N.Y.2d. 360 (1967). Detectives obtained a search warrant and asked the assistant principal to call Carlos Overton to the office. He was searched by the detectives. They found nothing. They then asked the assistant principal to open Carlos' locker. The detectives found four marijuana cigarettes. They arrested Carlos.

The case was appealed to the New York Court of Appeals. The issues in the case were: (1) are the Fourth Amendment's restrictions applicable to school lockers? (2) does a school administrator have a right to search a locker? The court ruled in favor of the assistant principal as follows:

"The school authorities have an obligation to maintain discipline over the students. It is recognized that, when large numbers of teenagers are gathered together in such an environment, their inexperience and lack of mature judgment can often create hazards to each other. Parents, who surrender their children to this type of environment in order that they may continue developing both intellectually and socially, have a right to expect certain safeguards."

11. Title 70, Section 10-105 Oklahoma Statutes 1971. It shall be unlawful for a parent, guardian, custodian or other person having control of a child who is over the age of seven (7) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to cause or compel such child to attend and comply with the rules of some public, private or other school, unless other means of education are provided for the full term the schools of the district are in session; and it shall be unlawful for any child who is over the age of sixteen (16) years and under the age of eighteen (18) years, and who has not finished four (4) years of high school work, to neglect or refuse to attend and comply with the rules of some public, private or other school, or receive an education by other means for the full term the schools of the district are in session."

YOUTH AND SCHOOL

Learning Activity #6

Title: Case Law in Operation

Objective: Students will increase their understanding of how the courts determine boundaries of individual freedom and rights in the school setting.

Approximate Time:

Materials: Pages in this activity; Court Cases-Laws-Legal Principles of Learning Activity 5.

Directions: To the Teacher.

1. Assign each of the following legal issues and accompanying questions to a group of students. If smaller groups are desired assign the same legal question to two or more groups.

2. Ask each group to write an opinion on the legal issue and responses to the questions accompanying each legal issue.

3. Inform students they must be able to show that their opinion is consistent with those listed on the Court Cases, Laws and Legal Principles, Page76.

4. It is suggested you invite a local attorney to assist you with this learning activity. Please give the attorney a list of the legal issues and questions several days prior to his meeting with the students.

Evaluation: Students have attained this objecive if their written opinions reflect an understanding of the court case, laws and legal principles contained in Lesson Activity #5.

Legal Issues and Accompanying Questions

1. John Doe, an 11th grade student in Podunk High School, is told that he must take a paddling for defying a teacher. John says he will not be paddled because he is too mature for that type of treatment and besides his parents are against it. According to the laws and court cases listed in Learning Activity #5 can John Doe be paddled by the principal?

   Associated questions to be considered in the opinion

   Does the doctrine of In Loco Parentis apply?

   Does the State of Oklahoma condon corporal punishment?

   Do the Eighth and Fourteenth Amendments apply? If so, how?

   Is there a former court case that applies?

   What is ordinary force as implied in Oklahoma Statutes section 650 (21-844)?

   Would it make a difference if the Podunk school board had a rule baning corporal punishment?

2. Susie Doe, a 9th grade student in Podunk High School was suspended from school for five days. The principal simply told Susie she was suspended for cheating. Susie said she was innocent to which the principal responded "I'm sorry, but you are suspended." According to the laws and court cases listed in Learning Activity #5 was the principal correct in suspending Susie as he did?

   Associated questions to be considered in the opinion:

   Is the problem with the way Susie was suspended or with the fact she was suspended?

   Does the Fourteenth Amendment apply?

   Is the right to go to school considered a property interest?

   Is there a former court case that applies? If so, how?

3. The principal of Podunk Middle School was informed by three other students that Peter Doe, an 8th grade student, had some marijuana

Learning Activity #6 Case Law in Operation (con't.)

in his locker. According to the laws and court cases listed in Learning Activity #5 can the principal search Peter Doe's locker without Peter's consent?

Associated questions to be considered in the opinion:

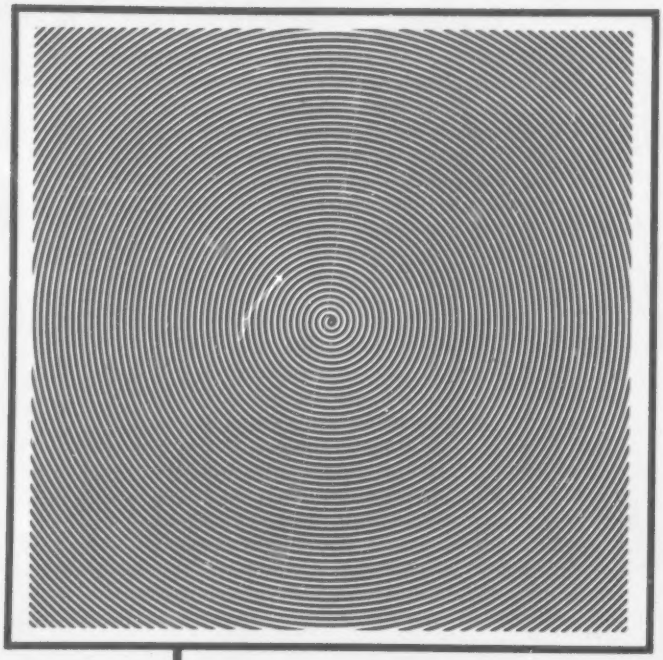
Does it make a difference that it is the principal rather than a law enforcement person?

To whom does the locker belong? Does that make a difference?

How about the Fourth Amendment? Does it apply?

What do the Oklahoma Statutes say regarding this?

Is there a former court case that applies? In what way?



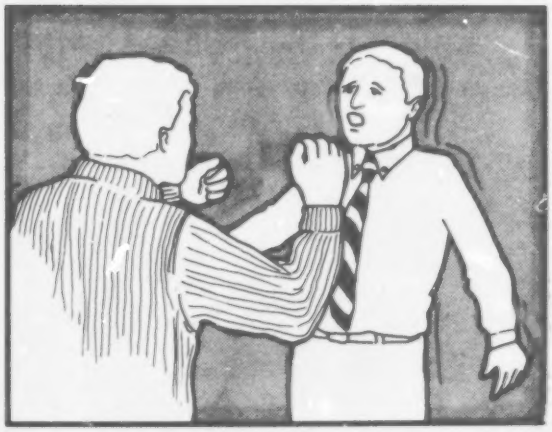
Youth and Laws Dealing With Relations Between People

YOUTH AND LAWS DEALING WITH RELATIONS BETWEEN PEOPLE

Assault and Battery

1. What is assault?

An assault is any willful and illegal attempt or offer with force or violence to physically hurt someone else *(21 O.S. 641)*.



2. What is battery?

A battery is any willful and illegal use of force or violence upon another person *(21 O.S. 642)*. Here the harm actually occurs, whereas assault is the attempt or offer to do the harm.

Self Defense

3. When is a self defense permitted?

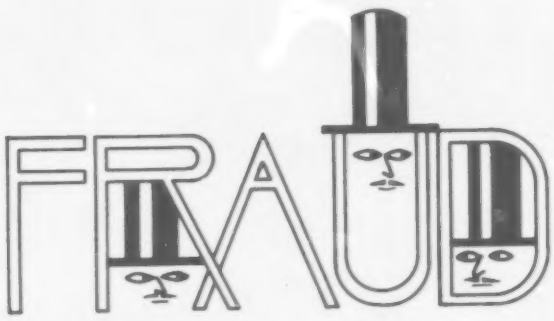
A person who is about to be injured may use force in self defense to prevent or attempt to prevent injury to himself. Also another person may use force in helping a person who is about to be injured prevent or attempt to prevent the injury *(21 O.S. 643)*.

4. How much force is permissible in self defense?

The force used in self defense must not be more than is sufficient to prevent occurrence of the personal injury which is attempted *(21 O.S. 643)*.

5. Can you use force to protect property?

Yes, but a person can use only that force which is sufficient to prevent the trespass or other illegal interference with real or personal property which is in his lawful possession *(21 O.S. 643)*.



Fraud

6. What is fraud?

Fraud is where a person makes a material representation with knowledge that the representation is false, or where one recklessly asserts that the representation is true without knowledge of its truth. Here, for there to be fraud, there must be intent that another party would rely upon its truthfulness to one's own detriment or loss.

Negligence

7. What is negligence?

Negligence is the failure to use due care, either in the commission of an act or in the failure to perform an act, which results in an immediate injury to another person. Here there is a duty, not founded on contract, owed to the other person.

8. For what harm is a negligent person liable?

A negligent person is liable for damages to another person where that negligence caused personal injury to the other person or to the other person's property.

9. What is contributory negligence?

Contributory negligence is where an injured person contributes to one's own injury through willful lack of ordinary care.

10. What is last clear chance?

The doctrine of last clear chance applies where it appears that the person charged with negligence, by exercising reasonable care, might have avoided injuring the other person, even though the other person was guilty of contributory negligence.

11. What is gross negligence?

Gross negligence is a very great negligence or the lack of even slight care or diligence upon the part of the person charged with the negligent act.

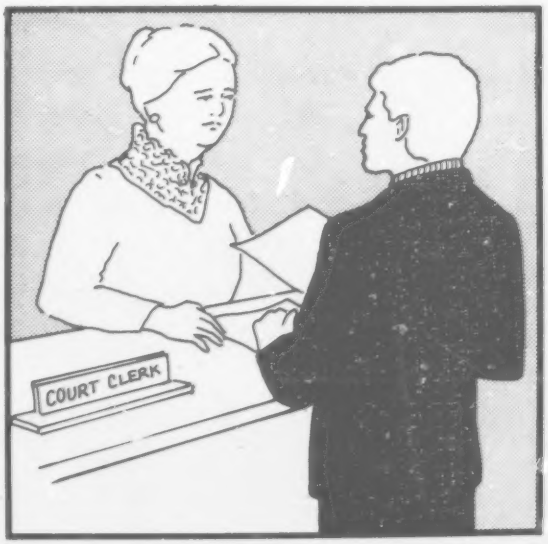
Minors and Law Suits

12. What special rules apply to minors involved in legal suits?

A minor may be legally liable for any wrong done by him/her the same as any other person *(15 O.S. 25)*. However, in a civil judgment against a minor, that person has one year following his/her majority (18 years) to attack such judgment *(12 O.S. 700)*.

13. How does one file suit?

A civil action begins when the Plantiff files a petition seeking judgment against the Defendant in the District Court Clerk's office. Following the petition's filing, the Court Clerk issues a Summons to the Defendant *(12 O.S. 151, 264)*.



14. What must a Defendant do when served with a complaint?

A defendant must file an Answer to the Petition setting forth his defenses or some other appropriate pleading within 20 days after the day on which the Summons is returnable *(12 O.S. 283)*.

15. What happens after the Defendant files an Answer?

At this point, the issues to be determined by the trial are "joined." Usually the District Judge sets a meeting of the opposing lawyers for a Pre-Trial Conference. At this conference proposed stipulations or agreements are made, evidence and other exhibits are exchanged, and other routine matters related to the trial are acted upon.

Liability for Torts

16. How can you protect yourself from liability for your torts?

Many torts are committed unintentionally, but occur because of negligence or a failure to perform a legal duty. Therefore, sufficient liability insurance should be taken out to protect against personal or corporate liability in case of a civil suit.

17. What effect does consent have on tort action?

Generally, if a person gives consent to the occurrence of a tort, then that individual cannot sue the other party for committing the tort. Exceptions are where the act involves a person's life, is a breach of peace, or amounts to a public offense.

Similarly, if a person claims to have been injured as the result of a trespass to which there was approval, no action for trespass may be taken.

Oklahoma law *(76 O.S. 5)* also provides that medical practitioners who perform emergency medical treatment without the conscious consent of the person treated are not liable for damages if the treatment is performed reasonably and in good faith.

18. What insurance should you carry?

The type and amount of insurance needed varies depending upon the person, the possible exposure to legal suits, and the extent and magnitude of your business or of your property. Liability insurance sufficient to cover a large percentage of a person's business or exposed property generally should be taken out, depending upon the likelihood of liability suits occurring.

In Oklahoma, in order to drive on the public highways, a person is required to have adequate liability insurance or sufficient financial responsibility to pay damages resulting from a suit. If a person involved in an accident has neither liability insurance or financial responsibility, then the operator's license may be confiscated for six (6) months by the Department of Public Safety.

YOUTH AND LAWS DEALING WITH RELATIONS BETWEEN PEOPLE

Learning Activity #1

Title:	Definition Match
Objective:	Students will be able to state accurate definitions for terms associated with crimes against people and property.
Approximate Time:	30 minutes
Materials:	Question and Answer section entitled Laws Dealing with Relations Between People; Question and Answer section entitled Youth and Property.

Directions: To the Teacher.

1. This is a review of terms dealing with people relationships which are used in the preceding section as well as throughout the book.

2. The terms are shoplifting, larceny, embezzlement, robbery, extortion, vandalism, assault, battery, fraud, negligence, contributory negligence, last clear chance, gross negligence.

3. All of these terms may be found in the sections listed next to the word "Materials" above.

4. Either give students the pages containing the definitions, or to save paper, have the words and definitions copied on a single sheet of paper.

5. Give the words and definitions to students for review.

6. Select three students to be judges who have a good understanding of the words. Select a fourth student to keep score.

7. Divide the remainder of the class into two equal groups, numerically and academically.

8. Read a word for which a definition is desired. Have teams alternate in their responses. Words may be used more than once.

9. For each answer the three judges will hold up a card marked 0 - wrong; 1 - fair; 2 - good; 3 - excellent. The score the team gets for that answer will be the total of the three cards.

10. Keep a cumulative record of each separate student who scores one or more points.

11. The final score for each team will be the cumulative response score plus two points for each separate student who scored two or more points.

12. Discuss with the class questions which may arise as a result of the match exercise.

Evaluation: Students have accomplished the objective if fifty percent of the students respond and an average of three points is scored for each response given.

YOUTH AND LAW RELATIONS

Learning Activity #2

Title: Accidents and Negligence

Objective: Students will be able to determine negligence or non-negligence when presented with cases involving accidents.

Approximate time: 40 minutes

Materials: Question and Answer section entitled "Laws Dealing with Relations Between People"; court cases on negligence, this activity.

Directions: To the Teacher.

1. Review the Question and Answer section entitled "Laws Dealing with Relations Between People." Discuss with students those items in particular having to do with negligence.

2. Inform students that in order to prove negligence the plaintiff must be able to show all the following:
   a. the defendant took or failed to take action.
   b. the defendant had a duty to use care.
   c. the defendant failed to use proper care.
   d. the plaintiff suffered damages.
   e. what the defendant did (or failed to do) caused the damages.

3. Discuss with students the concept of the "reasonable person." This concept applies to b and c above. The issue is: Did the defendant exercise the care one could expect from a reasonable person, that is, a person of average intelligence and capabilities? It is assumed the reasonable person would have the same physical assets or limitations as the defendant.

4. Give students a copy of the pages entitled "Court Cases on Negligence." Assign two students to take the plaintiff side while two students take the defendant side on items a, b, c, d, e, of item No. 2 above. Limit discussion to one minute for each side. After the plaintiff and defendant sides complete their arguments for each of the issues a, b, c, d, e, the class, serving as a jury, should vote "yes" or "no" on that issue. Finally, after all separate issues are voted on, the class (jury) will vote on the question "should the plaintiff be awarded damages?" Repeat with Case #2.

5. (Optional) You may wish to invite an attorney as a resource person. The purpose would be to assist students to understand the concepts of the reasonable person and to debrief the student performance following the verdict by the students.

6. The actual verdicts, which you may wish to share with students after they reach their decision, were:

   Case #1. The trial court dismissed action believing the boy's testimony. The case was appealed by the plaintiff to the Washington State Supreme Court. The State Supreme Court said the crucial issue was "Did the boy, when he moved the chair, know with substantial certainty that plaintiff would attempt to sit down where the chair had been?" After considering carefully all additional available evidence, including examining the time sequence, the Court concluded that the arthritic woman had begun the slow process of being seated when the defendant quickly removed the chair and that he knew, with substantial certainty, that the plaintiff would attempt to sit in the place where the chair had been. Judgment in the amount of $11,000.00 for the plaintiff was held by the Court.

   Case #2. The plaintiff was found to be 100 percent negligent.

Evaluation: Students have accomplished this objection if they meet the following two criteria: (1) their discussions and votes on items 2 a, b, c, d, e indicate an awareness of how negligence is determined, and (2) they can write a paragraph properly defining the reasonable person concept.

Court Cases on Negligence

Case #1 - B. D. (age five years, nine months) was visiting with N.G., an adult. R. G., an older sister of N.G., also came to visit at the same time. All three were in the backyard. According to the plaintiff, R.G., she started to sit down on a lawn chair when the defendant, B.D., pulled the chair causing her to fall on the ground. N.G., sister of the plaintiff, so testified.

Plaintiff charged that the fall resulted in a fractured hip and other serious and painful injuries. Plaintiff requested damages in the amount of $11,000.

The defendant, B.D., stated that he moved the chair and seated himself therein, but, when he discovered that plaintiff was about to sit at the place where the chair had been, he attempted to move the chair toward the plaintiff, and was unable to get it under plaintiff in time.

Note to students: The defendant was charged with battery which is the intentional infliction of a harmful bodily contact upon another.

Law of battery, which is applicable to adults, would be applicable to a child less than six years of age, and child's age would be of consequence only in determining what he knew as based upon his experience, capacity and understanding.

Case #2 - M.D., the plaintiff, age 25, was driving his vehicle a 1975 Lemans Pontiac in a southerly direction on a two-way hard-surfaced road. The defendant, B.L., age 26, was driving a flatbed truck in a northerly direction on the same road.

The plaintiff claims the accident was caused by the defendant failing to keep his vehicle under proper control, failure to keep a proper lookout for other vehicles on the roadway, driving at an excessive rate of speed under the circumstances, and driving his vehicle left of the center of the roadway, in violation of the Highway Safety code of the State of Oklahoma, *O.S. 47 § 11-302*.

M.D. claims that as a result of the carelessness and negligence of the defendant, he received serious and permanent injuries to his head and body. In particular, he received bruises and contusions about his head and body. He suffered a brain concussion. He sustained fractures of the bones in his left arm. He sustained fractures of the bones of his left leg above and below the knee. A few days after the accident, he was noted to have a left radial nerve palsy with complete wrist and finger drop. He had surgery for this conditon. The surgery included place and screw fixation of the humeral fracture. He incurred medical expenses and will have future medical expenses for the treatment of his injuries. He was totally disabled for a period of time and will be partially disabled for the remainder of his life as a result of his injuries. He has suffered a loss of income and will have a future loss of income as a result of his injuries. His injuries have caused him pain and suffering and he will continue to suffer pain for the remainder of his life. He was twenty-five years of age at the time of the accident and had a life expectancy of forty-seven years. As a result of the above injuries, he has been momentarily damaged in the sum of ONE MILLION ONE HUNDRED SEVENTY-SEVEN THOUSAND, FIVE HUNDRED DOLLARS ($1,177,500.00).

B. L., the defendant, in answer to the petition, admits that he was driving the truck and that the accident did occur. He denies that he was in any way careless or negligent and alleges to the contrary that the plaintiff was careless and negligent in one or more of the following particulars:

a. he failed to keep his automobile under proper control.

b. he failed to keep a proper lookout for vehicles on the roadway ahead and in particular the vehicle driven by the defendant, B. L.

c. he was driving his vehicle at an excessive rate of speed under the circumstances in violation of the speed limits of the municipal ordinances and the applicable State statutes and highway safety codes of Oklahoma.

d. he was driving his vehicle left of the center of the roadway in violation of the *47 O.S. 1971 §11-302*.

e. the defendant alleges that the negligence of the plaintiff exceeded the total combined negligence, if any, of the defendant and is therefore not entitled to recover herein.

The accident was investigated by the Saber Police Department. The accident report filed by the Police Department reads as follows:

"The vehicle driven by M.D., plaintiff, was southbound at Hillcrest. Vehicle drive by B.L., defendant, was northbound at Hillcrest. B.L. stated that M.D.'s vehicle was in the middle of the road as he topped the hill. M.D.'s vehicle veered to the right then back to left sideswiping the cab of the truck driven by B.L. The plaintiff's vehicle then slipped under the flatbed of the truck knocking off its entire transmission assembly. M.D.'s vehicle then continued over Hillcrest, going partially off east side of roadway, then back on roadway, coming to rest off east side of roadway. The truck continued south coming to rest on east edge of roadway. M.D. stated he was eating while driving but did not know how accident occurred."

A citation was issued M.D. for driving left of center. The following instructions were given by the judge to the jury prior to their deliberations on the case:

The burden of proof is upon the plaintiff to establish by preponderance of the evidence the essential elements of his claim. Likewise, the burden of proof is upon the defendant to establish the essential elements of the affirmative defenses.

Any person driving a vehicle on a highway shall drive the same at a careful and prudent speed not greater than nor less than is reasonable and proper, having due regard to the traffic, surface and width of the highway and any other conditions then existing.

The driver of every vehicle shall be consistent with the above, drive at an appropriate reduced speed when approaching a hillcrest.

You are instructed that it is provided for at *47 O.S. § 11-306* in part as follows:

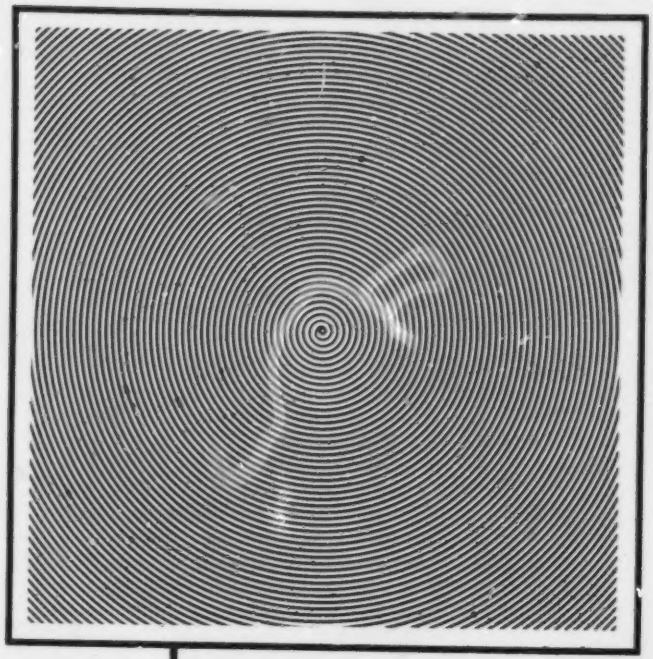
No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

When approaching a crest of a grade. You are instructed that a driver has the right to assume that other drivers will obey the traffic laws and are entitled to act accordingly until such time as in the exercise of ordinary care it becomes otherwise apparent, at which time such driver must exercise ordinary care under the circumstances to avoid a collision.

You are instructed that the drivers of vehicles meeting each other on a two lane street, or highway, must keep to the right of the center of the roadway in passing each other.

You are instructed that drivers of a vehicle on the streets and highways of this State must keep a proper lookout for other vehicles on the roadway ahead.

You are instructed that in resolving the issues before you in this case, you will be called upon to apply a doctrine known as comparative fault. As the name suggests, application of the doctrine will require that you determine in conection with the accident, first, whether the plaintiff, defendant, or both of them were at fault as has been contended; second whether the fault of that party caused or contributed to causing the accident and damages in question; and, third, will require that you compare the degree, or percentage, of fault of the plaintiff and defendant.



Youth and Arrest

YOUTH AND ARREST

Arrest and the Rights of a Minor

1. What are a minor's rights before being arrested? Are they any different from an adult's rights? If the police accuse me of committing a crime, do I have to answer their questions?

Before an arrest, a minor has the same rights as an adult. You only can be arrested if the police officer has probable cause to believe that you have committed some crime.

In the case of a felony, the police officer decides whether or not to make the arrest. Here no warrant is required.

In the case of a misdemeanor, a summons must be issued by the court clerk. The summons directs the child and the parents to appear for a regular juvenile court hearing on a verified petition which alleges that the minor has committed a criminal act. This petition is filed by the District Attorney.

A minor needs to be advised of one's rights only if the police are going to question that individual about the alleged crime. A minor has the right to have parents or guardian present during the questioning. If statements are obtained from a minor without being advised of rights or without a parent, guardian or attorney being present, then these statements may not be used in court against the child. Failure to follow these rules does not keep the child from being prosecuted. It merely keeps the statement, and possibly any evidence obtained as a result of the statement from being presented in court.

No citizen, adult or child, ever has to answer a police officer's questions unless one wants to do so. However, a person is required to identify oneself to a police officer, and if asked, to state the purpose for being in a certain place at a certain time.

2. What are a minor's rights after being arrested? Are these any different from an adult's rights?

The rights of children who are accused of committing crimes are protected by Oklahoma's juvenile code.

A minor who commits murder, armed robbery, shooting with intent to kill, kidnapping, rape, arson, manslaughter, first degree burglary, or sodomy without consent is treated as an adult unless demonstrating to the court that the individual should not be "certified" as an adult and prosecuted in juvenile court.

For other offenses there are a wide variety of procedures.

A child has the right to have an attorney, the right to confront opposing witnesses, the right to a jury trial if wanted, and the right to appeal if found to be delinquent or has been certified as an adult. All of these rights are similar to those of an adult.

3. Can I be arrested "on suspicion" or "for investigation?"

Yes, any citizen may be arrested "on suspicion" or "for investigation" of an alleged crime. A minor may not be held by the police without the prior approval of a judge.

Conditions of Custody

4. If I am taken into custody, can I be put in jail?

Yes, a minor may be jailed in certain circumstances. However, a child may not be placed in the same cell with an adult offender.

If the charge is a serious one -- such as murder, armed robbery, shooting with intent to kill, kidnapping, rape, arson, manslaughter, first degree burglary, or sodomy without consent -- the child is immediately taken into custody and must post a bond before being released.

YOUTH AND ARREST

Police Search

5. Under what circumstances can the police search me or my property?

Generally, a person's property may not be searched without search warrant. Following are some exceptions where a search warrant is not required.

A police officer may search your person for weapons in most cases.

If you've been taken into custody and are being held pending release to parents, social workers or an attorney, the police officers may search you at the time they take you into custody.

A person may give consent to a search of one's own home, car, etc.

A minor's parents may not consent to a search of the minor's room, but can consent to a search of the common areas of the home that are used by everybody residing there, e. g. the garage, kitchen, den.

The law only protects those areas in which a person has some reason to expect privacy, but not public areas or items which are in plain open view. For instance, if a minor stole a bicycle and was seen riding it down the street by a police officer, who had probable cause to believe that it was stolen, the officer could seize it from the minor. Here a warrant would not be required and the bicycle could be used as evidence against that minor.

Joy Riding, Hiding a Criminal, Running Away, Threats

6. Can I get in trouble if, as a joke, I call up somebody and tell him there is a bomb planted in the building?

Yes. It is against the law to wrongly tell someone a bomb is planted in a building, in a person's home, or upon an airplane.

Punishment is three to ten years in the state penitentiary and/or a fine of up to $10,000 *(21 O.S. 1767.2)*.

7. If I get angry and threaten somebody, am I guilty of a crime?

Probably not, as long as only a threat is made and nothing more is done in furtherance of this threat.

However, such actions as shaking your fist in a threatening manner, or attempting to strike someone even though you miss, may turn this into an assault which is a crime.

YOUTH AND ARREST

An assault is an attempt or offer with force or violence to hurt someone else *(21 O.S. 641)*.

8. What if I run away to another state?

You may be returned home. Oklahoma law has a procedure for the return of children who run away and are found in another state. This is the Interstate Compact on Juveniles *(10 O.S. 532-537)*.

9. How does the Interstate Compact on Juveniles work?

The parents of a runaway child file an application with the court in the state where they live. The court then holds a hearing to determine if the parents are entitled to custody of the child. If the court agrees that the parents are entitled to custody of the child it will issue a requisition to the state where the child is located.

When a child is taken into custody on the requisition, the youth will be taken before a judge in that state. If that judge is satisfied that the requisition is in proper form, he will order the child delivered to an officer from the child's home state who will return the young person to the parents.

10. If I know a friend has committed a crime and I hide him from the police, can I get in trouble?

Yes, this may make you an accessory to the crime. An accessory is a person who knows about a crime and helps the offender to avoid or escape arrest, trial, conviction or punishment *(21 O.S. 173)*. Punishment is up to five years in prison, or one year in the county jail, or a fine of up to $500, or both a fine and incarceration.

11. What is the penalty for joyriding in a car?

Joyriding is illegal in Oklahoma. It is punishable by a fine from $5 to $100 *(21 O.S. 1787-1788)*.

YOUTH AND ARREST

Learning Activity #1

Title:	Catch That Thief
Objective:	Students should gain in awareness regarding the sometime frustrations of being a police officer particularly in the absence of community support.
Approximate Time:	45 minutes
Materials:	Statistics - Larceny by Classification - this activity (Optional - Crime in Oklahoma, Annual Report, 1980, Oklahoma State Bureau of Investigation.) Police officer from local police department.

Directions: To the Teacher

1. Distribute Statistics on Larceny to the students and respond to questions they may have regarding this handout.

2. Announce to students that they are commissioned officers for the class period. Arrange for a police chief or sergeant from your local police department to brief your police officers (students) regarding the need to cut the larceny crime rate in 1982 by an average of 10 percent from what it was in 1980. Limit the member of the police department to 10 minutes for this presentation.

3. Divide the student police officers into groups of three.

4. Assign one group of students the task of making suggestions on reducing pocket-picking. Another group may make suggestions for reducing shoplifting, etc.

5. After 15 minutes of group brainstorming, the student police officers should report their suggestions to the class and to the chief or sergeant from your police department.

6. If time allows, the police officer may wish to describe some ways the police department attempts to reduce these crime rates.

Evaluation: The objective has been obtained if student suggestions and their interchange with the police officer reveal a deep understanding of the complexity of the problem.

Learning Activity #1

Catch That Thief (con't.)

LARCENY BY CLASSIFICATION

CLASSIFICATION	YEAR	NUMBER OF OFFENSES	% CHANGE	% DISTRIBUTION	TOTAL VALUES
Pocket-picking	1980	292	+23.2%	.4%	$ 52,137
	1979	237	-19.9%	.4%	$ 41,100
	1978	296	- 2.0%	.5%	$ 49,937
Purse-snatching	1980	749	+14.5%	1.0%	$ 123,024
	1979	654	+26.7%	.9%	$ 71,209
	1978	516	- 4.4%	.8%	$ 51,071
Shoplifting	1980	4,912	-15.7%	6.7%	$ 426,986
	1979	5,824	+ 1.9%	8.5%	$ 386,070
	1978	5,716	+ 8.4%	9.5%	$ 343,138
From Motor Vehicles	1980	15,582	+ 8.6%	21.3%	$ 5,091,026
	1979	14,342	+12.5%	21.0%	$ 4,260,689
	1978	12,754	+10.8%	21.2%	$ 3,187,755
Motor Vehicle Parts and Accessories	1980	14,113	- 5.0%	19.3%	$ 3,057,376
	1979	14,854	+15.7%	21.7%	$ 2,881,173
	1978	12,838	-16.0%	21.3%	$ 2,127,903
Bicycles	1980	6,719	+12.8%	9.2%	$ 704,95[illegible]
	1979	5,955	+ 9.9%	8.7%	$ 590,698
	1978	5,418	-13.9%	9.0%	$ 432,217
From Buildings	1980	8,827	+ 5.4%	12.1%	$ 4,327,929
	1979	8,377	+14.6%	12.3%	$ 3,235,686
	1978	7,307	+12.2%	12.1%	$ 2,320,447
From Coin-operated Machines	1980	684	+ 2.7%	.9%	$ 94,400
	1979	666	+ 3.3%	1.0%	$ 84,328
	1978	645	- 6.0%	1.1%	$ 60,181
All Other	1980	21,330	+22.2%	29.1%	$14,973,078
	1979	17,45[illegible]	+18.4%	25.5%	$10,144,628
	1978	14,743	- 8.0%	24.5%	$ 6,461,186
TOTAL	1980	73,208	+ 7.1%	100.0%	$28,852,909
	1979	68,368	+13.5%	100.0%	$21,695,581
	1978	60,233	- 3.5%	100.0%	$15,033,835

Crime in Oklahoma, Annual Report, 1980, Oklahoma State Bureau of Investigation.

YOUTH AND ARREST

Learning Activity #2

Title:	Words We Need to Know; But Hope We Never Have to Use
Objective:	Students will understand the vocabulary used by legal authorities during and following an arrest. Students will demonstrate behaviors having the greatest probability of reducing anger and physical violence during and after an arrest.
Approximate Time:	45 minutes
Materials:	Glossary of terms, this activity.

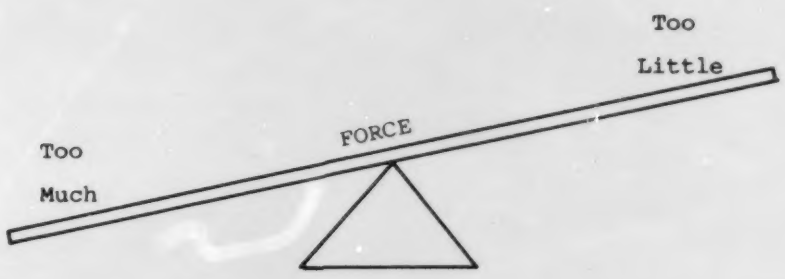
Directions: To the Teacher.

1. Distribute copies of the glossary of terms provided in this activity.

2. Students write a paragraph using terms from the Glossary. For each term used correctly, up to ten terms, award ten points to arrive at a daily grade. Remind students of the structure of a good paragraph.

3. Draw a design on the board similar to the following:

Force Used in Making an Arrest



Learning Activity #2 Words We Need to Know (con't.)

4. Ask students to discuss:
   a. Conditions that may cause officers to use excessive force.
      (1) drunk or disorderly youth.
      (2) perception of physical danger.
      (3) other.
   b. Possible results of using too little force.
      (1) loss of authority; respect.
      (2) minor disturbance becomes major disruption.
      (3) other.
5. Discuss most appropriate actions to be taken by an officer.
6. Discuss most appropriate actions to be taken by student.

Glossary of Terms

1. Adult - one who has attained the age of majority. A child attains majority at the age of 18. *(10 O.S. § 1101 (1971)).*
2. Arrest - to deprive a person of his or her liberty by legal authority.
3. Assault - a forceful, unlawful attempt or offer to strike or harm another person.
4. Battery - unlawful touching or hurting a person.
5. Certification - the process whereby the decision is made to prosecute a child as an adult or to proceed with the case in juvenile court.

For a definition of Reverse Certification, see p. 123.

6. Child - a person under the age of eighteen (18) who is not married. A child is said to be emancipated when the parents' authority over that child ceases. This may happen upon the marriage of the child, or the child attaining majority.
7. Custody - to keep and care for; to have control over.
8. Detention - an action which may result from evaluation and screening during the intake process. A juvenile may be released to parental custody or held in an appropriate facility until legal actions are completed.
9. Disposition Hearing - the second stage of the juvenile hearing where the court judge decides the action necessary to best meet the needs of the child and the public.
10. Jurisdiction - the limits within which authority may be exercised.
11. Resist - to oppose by using direct action or force.
12. Search - an examination of a person, property or other premises in order to locate evidence to be used in a legal proceeding.
13. Seizure - to take possession of by legal process; to take or to possess by force.
14. Warrant - a paper signed by a judge or court official authorizing a police officer to make an arrest, seize property, or carry out a judgment of the court.

YOUTH AND ARREST

Learning Activity #3

Title: Legal Rights and Responsibilities of Youth

Objective: Students will know

a. in the eyes of the law persons are classified either as a child or an adult,

b. children may be certified and legally dealt with as an adult,

c. children do have legal rights and responsibilities

Approximate Time: 45 minutes

Materials: Ten Important Things to Remember, this activity.

Directions: To the Teacher.

Distribute copies of "Ten Important Things to Remember..."
Ask students to read the handout and be prepared to role play the following parts:

a. Georgia Ann and "Tex" Oma -- two teenagers who have been stopped and questioned at a shopping center during school hours.

b. "Red" Knuckles and Dolly Pardon -- officers who have been called to the shopping center to investigate a complaint about shoplifting.

c. Buford Bodine -- manager of Frumpy's Ready-to-Wear.

d. Four observers --who will critique the encounters between role players.

Procedure: Ask players to do an encounter two times. First, students, officers and the store manager are angry and disrespectful. Students should model "How not to Behave" when stopped by police.

Observers comment on things done wrong, the scene should be replayed to demonstrate more appropriate behavior. Observers will again critique the action to emphasize the rights and responsibilities of all parties concerned.

Class Discussion

1. Should the students ask for an attorney's assistance if they are not guilty of shoplifting? Why?

2. Discuss statement #5 on the handout. How can you be cooperative yet refuse to talk about your case? Decide on several actions that would demonstrate courteous, cooperative behavior that cannot be construed as an admission of guilt.

3. Lead a class discussion about the attitudes, feelings and rights of the store manager, police officers, and persons accused of an unlawful act.

Ten Important Things to Remember

That Can Really Help You

If You are Stopped by the Police:

...give the police your correct name, address and telephone number, if asked to do so;

...be courteous;

...ask the officers if you are being placed under arrest

If You are Arrested:

1. Don't Resist! Resisting arrest (fighting or struggling with the police, swearing at them, giving a false name, trying to run away from them, etc.) can only get you into more trouble. Whether you are innocent or guilty, you are better off if you don't fight the

police. If you do, you can be charged with a separate offense of assaulting a police officer, even if you are not guilty of the crime for which you are arrested.

2. Remember! You only HAVE to tell the police your name, address and telephone number, but whatever you do, don't lie. Anything you say can be used against you in court.

3. Ask for a lawyer! As a juvenile, you are entitled to a lawyer, and if you can't hire a lawyer, one will be appointed for you. ...You may have to wait some time. But until you see your lawyer, do not sign any papers or say anything about whether or not you are involved in the charge.

4. Level with your lawyer. In order to help you, your lawyer needs all the facts.

5. Cooperate with social workers and probation officers. But, remember, you don't have to talk about your case with them if you don't want to.

6. Follow all conditions the court requires. (Examples: going to school regularly, getting home early at night, etc.) It can make a difference.

7. When you are in court. Arrive on time, be courteous, show respect for the judge and dress neatly.

8. Keep in touch with your lawyer.

9. Ask your lawyer to explain. If you don't understand what any papers you are asked to sign mean or what's happening in court, ask your lawyer.

10. If you are sent to the children's center: Cooperate and work at getting recommendations from your counselors and teachers.

Juveniles (persons under eighteen (18) years of age) are treated differently than adults:

Because you are young, the judge is there to act in your best interest (as if he or she were your parent).

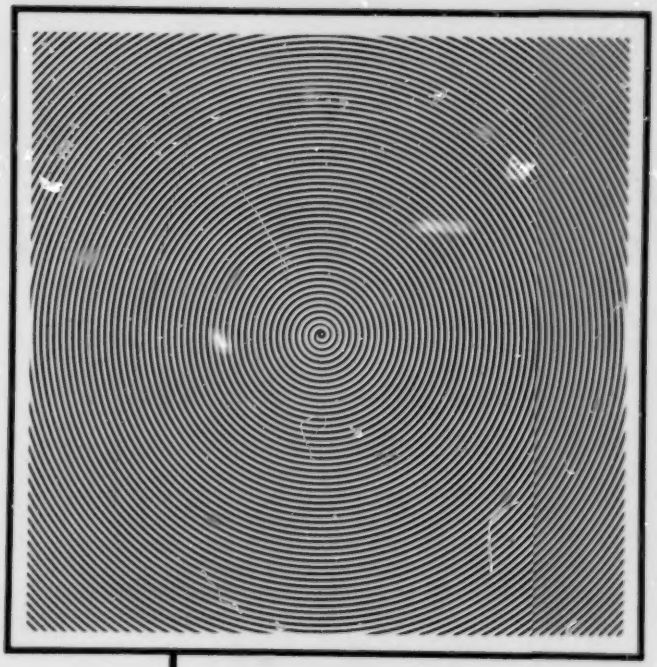
You do have some of the same rights as adults:

1. to know the charges against you.

2. to have a lawyer.

3. to have your lawyer question any witnesses against you at the time of your trial.

The information above comes from: What Happens if You're Arrested, a manual about the Juvenile Justice System and Your Rights, by Young Lawyers Section, Bar Association of the District of Columbia.



Youth and the Court System

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YOUTH AND THE COURT SYSTEM

Delinquency Offenses

1. For what offenses can a minor be charged with delinquency?

Oklahoma law *(10 O.S. 1101)* sets out three basic categories of delinquent children. They are:

a. one who violates any state or federal law or municipal ordinance, except traffic regulations;

b. one who violates or disobeys a lawful court order made pursuant to the juvenile code; or

c. one who habitually violates traffic laws or ordinances.

2. What can happen to me if I am found delinquent?

The court may make a delinquent child a ward of the court *(10 O.S. 1114)*. The court may place the child on probation or under supervision in the child's own home, or in the custody of a suitable person elsewhere upon terms the court determines, issue an order specifying conduct to be followed by the parent or guardian, require restitution for acts of delinquency, or commit the child to the custody of a private institution or agency or to the custody of the Department of Human Services *(10 O.S. 1116)*.

A child who has been committed to the Department of Human Services may be placed in a state institution, a foster home, a state school for mentally retarded if eligible, a licensed private facility, or may be allowed his liberty under supervision after a period in a state institution or foster home *(10 O.S. 1138)*.

Minors Tried as Adults

3. Can a juvenile who commits a crime be tried as an adult?

Yes, under certain circumstances *(10 O.S. 1112)*.

If the District Attorney wishes a juvenile to be treated as an adult, he must first get court approval. The judge conducts a two stage hearing. Part one is to determine if the case should be prosecuted. Part two is to determine whether the juvenile should be treated as an adult. At this stage the judge must consider the prospects for reasonable rehabilitation. In making this decision the judge considers the following:

1. The seriousness of the crime and how it was committed.
2. Whether the offense was against persons or property. (It is generally considered worse if it is against persons.)
3. The sophistication and maturity of the juvenile and the capability of knowing right from wrong.
4. The juvenile's past record of behavior.

5. The prospects of adequate rehabilitation of the juvenile as well as protection of the public if the youth is tried as a juvenile.
6. Whether the crime occurred while the juvenile was escaping from, or in an escape status from, an institution for delinquent children.

After considering the above factors, the judge then decides whether the juvenile will be tried as a juvenile or as an adult.

4. What is reverse certification?

Oklahoma's juvenile code provides that a minor who is sixteen (16) or seventeen (17) years old may be considered to be an adult if charged with certain offenses. These offenses are murder, kidnapping for the purposes of extortion, robbery with a dangerous weapon, first or second degree rape, first degree arson, use of explosives to commit a burglary, shooting with intent to kill, first degree manslaughter, sodomy without consent of the other person, or any felony offense involving the use of a firearm or other offensive weapon.

The accused person may file an application with the court requesting that the child be treated as a juvenile, rather than as an adult. The court will hear the request and decide the case based on the following factors:

a. whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
b. whether the offense was against persons or property (Generally it is worse if against persons.);
c. the record and past history of the accused person. This includes previous contacts with law enforcement agencies as well as with juvenile courts, any prior probations and any prior commitments to juvenile institutions; and
d. the prospects for adequate protection of the public if the accused person is treated as a juvenile.

5. If a minor is certified as an adult then what happens?

He is held for proper criminal proceedings on the offense charged. At his trial he is treated in the same manner as an adult who is charged with the same crime.

Lawyer Representation

6. If I am accused of a crime and my parents pay a lawyer to help me, does the lawyer represent me or my parents?

The lawyer represents you. A lawyer must not permit the person who pays him to direct or regulate his professional judgment in representing a client (Code of Professional Responsibility).

7. If I am charged with delinquency and my parents cannot afford to hire a lawyer for me do I have to go to court without one?

No, you are entitled to have a lawyer appointed by the District Court to represent you. Here the lawyer's fee will be paid by the Court.

8. If I have a court-appointed lawyer to represent me in a case before the Court, do I have to worry about the lawyer telling other people about my case?

No. Lawyers are bound by the Code of Professional Responsibility to preserve the confidences and secrets of their clients. One of the few situations which permits him to reveal these confidences is with permission of the client.

YOUTH AND THE COURT SYSTEM

Accessory to a Crime

9. Can I be subject to penalties under the law if I just happen to be with someone who is committing a crime?

Oklahoma law *(21 O.S. 171)* classifies parties to a crime as principals or accessories.

Principals are those persons concerned in the commission of a crime whether they commit the act directly or aid and abet in its commission.

Accessories to crimes are those persons who, after the commission of any felony, conceal or aid the offender with the knowledge that he has committed a felony, and with the intent that he may avoid or escape arrest, trial, conviction or punishment.

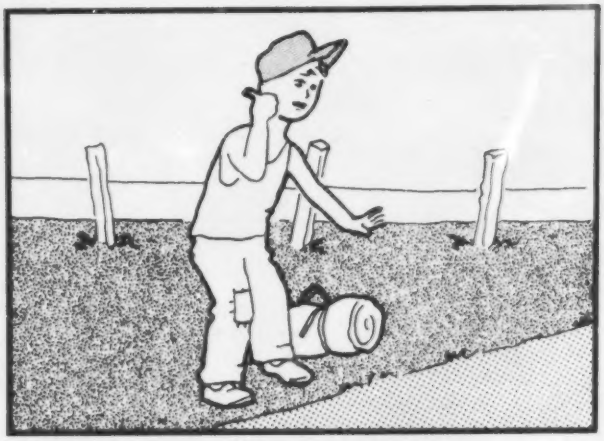
Thus, if a person does not fall under the above classifications for principals and accessories, then he would not be subject to legal penalties.

"Aiding and abetting" requires acts, words or gestures which encourage the commission of the offense either before or during the commission of the offense. Mere acquiescence or mental assent does not constitute aiding or abetting in the commission of a crime.

Deprived Child

10. What is a deprived child?

According to Oklahoma law *(10 O.S. 1101)* a deprived child is one who falls into one of the folowing categories:



a. one who, for any reason, is destitute, homeless or abandoned;

b. one who does not have proper parental care or guardianship;

c. one whose home is unfit because of neglect, cruelty, or depravity;

d. one who needs special care and treatment because of physical or mental condition, and whose parents are unable or unwilling to provide the needed care or treatment;

e. a child who is subject to the compulsory school attendance laws and is excessively absent from school due to improper care by the parents or guardian. Here the child must be absent fifteen (15) or more days or parts of days during a semester, or four (4) or more days or parts of days during a four-week period; or

f. a child whose parents no longer want custody of the youth.

11. What can the judge do if he finds that a child is deprived?

Oklahoma law *(10 O.S. 1116)* outlines several courses of action concerning a deprived child. They are:

a. placing the child in the individual's own home, under supervision;

b. placing the child in the home of another person, such as a relative or friend or in a foster home;

c. placing the child in the custody of a private institution or agency; or

d. placing the child in the custody of the Department of Human Services.

Oklahoma Courts

12. If a person is charged with a violation of the law, what court will that person go to?

This depends upon the type of violation.

If the violation is of a municipal (city) ordinance, the person will be tried in the municipal court of the city or town involved.

YOUTH AND THE COURT SYSTEM

OKLAHOMA JUDICIAL SYSTEM

U. S. SUPREME COURT

CIVIL CASES

CRIMINAL CASES

STATE SUPREME COURT
(9 JUSTICES)
COURT OF LAST APPEAL
UNLESS A CONSTITUTIONAL
QUESTION

COURT OF CRIMINAL APPEALS
(3 JUDGES)
COURT OF LAST APPEAL UNLESS
A CONSTITUTIONAL QUESTION

COURT OF APPEALS IN
OKLAHOMA CITY
(3 JUDGES)

COURT OF APPEALS
IN TULSA
(3 JUDGES)

36 DISTRICT COURTS

MUNICIPAL COURTS

TRIAL COURTS OF ORIGINAL AND GENERAL JURISDICTION. HANDLE CIVIL AND CRIMINAL CASES.

HANDLE MISDEMEANORS ONLY: NO FELONIES, NO CIVIL CASES.

OKLAHOMA'S STATE COURT SYSTEM

SUPREME COURT

Court of Criminal Appeals

Court on the Judiciary Appellate Division

Court of Appeals

Municipal Court of Record

Court on the Judiciary Trial Division

District Court	
Criminal	Civil
Felony	General Civil
Misdemeanor	Divorce
Appeals from	Probate
Municipal Courts	Juvenile
not of record	Small Claims

Industrial Court
(Workers Comp. Court)
Court of Bank Review
Court of Tax Review

Municipal Court Not of Record

*Some cases assigned to Court of Appeals by the Supreme Court

-Direct Appeals as a matter of right
-Review by writ of certiorari in the discretion of the Supreme Court

YOUTH AND THE COURT SYSTEM

If a state law is broken, the case will be heard in the State District Court in the county where the violation took place.

If a federal law is violated, then the proper court is the U.S. District Court in the district where the violation occurred.

13. What levels of courts do we have in Oklahoma?

The court system is divided as follows:

a. The Municipal Court hears violations of the ordinances of the city or town which established the court.

b. The District Court is what is known as a court of general jurisdiction. This means that it hears all types of cases, including divorce, civil suits, criminal matters, probate of estates, juvenile matters, guardianships, and adoptions. Oklahoma's counties are divided into twenty-six (26) judicial districts. Judges are assigned to a particular county in the district according to population and the number of cases brought before the court.

c. The Workers Compensation Court hears only cases involving people who are injured on the job. There are seven judges on this court.

d. The Court of Tax Review is made up of three District Judges who are selected by the Governor. It hears cases where there is a protest of a tax which has been levied by a county or a city or town.

e. The Court of Bank Review is made up of three District Judges who are selected by the Governor and approved by the State Senate. This court hears appeals from decisions made by the State Banking Board or the Bank Commissioner.

f. The Court on the Judiciary hears cases involving the removal from office of state judges. It is composed of two divisions. The Trial Division hears the actual trial of the removal case. The Appellate Division hears appeals from decisions of the Trial Division.

g. The Court of Appeals is divided into two divisons of three judges each. It hears civil cases which have been appealed and are assigned to it by the Oklahoma Supreme Court.

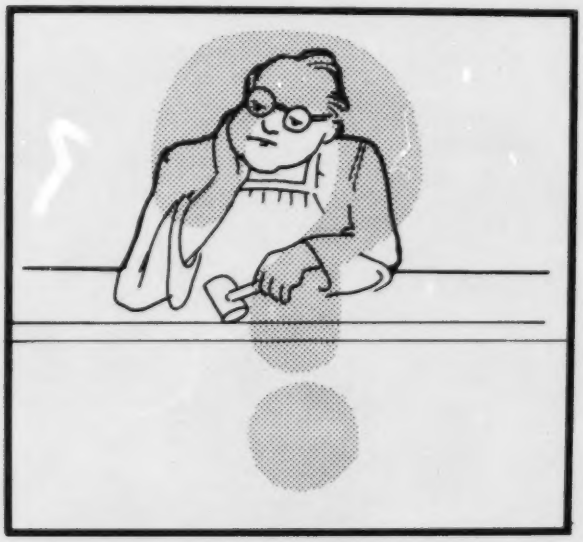
h. The Court of Criminal Appeals is composed of three judges. It hears all criminal cases which have been appealed from the District Court.

i. The Oklahoma Supreme Court is the highest court in the state. It is composed of nine justices and hears appeals in all non-criminal matters. It has the additional responsibilities of determining the budget of the District Courts each year, establishing the rules of procedure for the District Courts, establishing the rules which govern the Oklahoma Bar Association, and determining who will be permitted to practice law in Oklahoma.

j. The Small Claims Court is not a separate court. Instead, it is a special procedure for hearing cases which involve less than $1,000. Here a lawyer is not required to be present. Also the trial is held between 7 and 30 days after the case is filed.

Selection and Dismissal of Judges

14. If a citizen feels that a judge is not performing the duties of his office properly, what can be done?



A citizen can file a complaint with the Council on Judicial Complaints *(20 O.S. Chap. 22)*. It is the duty of the Council to investigate all complaints. If a complaint has merit, they forward it to the Attorney General for filing in the Court on the Judiciary.

15. For what reasons can a judge be removed from office?

YOUTH AND THE COURT SYSTEM

The Oklahoma Constitution *(Article VII-A, Sec. 1)* provides that judges may be removed from office for the following reasons:

a. gross neglect of duty
b. corruption in office
c. habitual drunkenness
d. commission of an offense involving moral turpitude
e. gross partiality in office
f. oppression in office
g. mental or physical disability preventing the proper performance of an official duty
h. incompetence to perform the duties of the office.

The Oklahoma Statutes *(20 O.S. 1404)* provide these additional grounds for the removal of a judge from office:

a. acceptance of a fee or gratuity other than that allowed by law
b. continued willful failure to follow the rules and directives of the Supreme Court, the Presiding Judge of the Judicial Administrative District or the Chief Judge of the District
c. participation in partisan political activity
d. participation in an election campaign other than his own
e. becoming a candidate for election to a non-judicial office
f. making his political party membership publicly known.

16. How are judges selected in Oklahoma?

Generally speaking, a system of elections and appointments determines the people who will serve as our judges.

District Judges and Associate District Judges are elected for four-year terms. Judges of the Court of Appeals are elected for a six-year term. The Governor appoints Justices of the Oklahoma Supreme Court and Judges of the Court of Criminal Appeals who serve six-year terms.

At the end of each term the Supreme Court Justice or Criminal Appeals Judge becomes a candidate on a "retention ballot." This means the voters decide if the judge remains in office for another term. If a majority of the voters vote to keep the judge in office, he/she serves another term. If a judge or justice does not receive a majority of the votes, then the term is over, and the Governor will appoint someone else to fill the vacancy. All judges, regardless of the court which they serve, are selected on non-partisan ballots. This means they do not run for office as a member of a political party.

YOUTH AND THE COURT SYSTEM

Learning Activity #1

Title: Who Am I?

Objective: Students will be able to properly identify words and statements that relate to both adult and juvenile courts.

Approximate Time: 25 minutes

Materials: Adult and Juvenile Court Definitions, this activity

Directions: To the Teacher

1. Provide students with the pages on Adult and Juvenile Court Definitions. Review with class. Collect pages before continuing with this activity.

2. Divide the class so that one-half students represent one side, the other half of class another side. Appoint one student to keep score.

3. Tell the students you are going to read a list of the words they have just reviewed. These are words or phrases frequently heard around courts. Students should answer "adult" or "juvenile" according to where they think the phrase or word would most likely be heard. If they state correctly their side gets a point. If they state incorrectly the other side gets a point and an opportunity to give the next answer.

Note: Items 1, 3, 4, 7, 12, 14, 21, 23, 24, 25, 26, 28 and 30 would most likely be heard in an adult setting.

Evaluation: This objective has been accomplished if students properly identify 90 percent of the words or phrases.

Adult and Juvenile Court Definitions

1. Adult - a person over the age of full legal rights and duties. Age 21 in Oklahoma.
2. Adjudication Hearing - a hearing to decide whether a juvenile committed the offense for which accused.
3. Arrest - taking a person into custody on the basis of probable cause of arrest warrant.
4. Bail - a sum of money, set by a judge, which is paid the court on behalf of a person accused of a crime to ensure returning at time of trial.
5. Certification -
6. Complaint - Report by parent, police, or citizen of delinquent activity.
7. Crime - an act forbidden by law.
8. Dependent - A minor removed from parents and placed in custody of the State.
9. Detention Center -
10. Dispositional Hearing - a hearing to decide what should be done with a juvenile found delinquent.
11. Disposition - a term used in juvenile court similar to sentence in adult court.
12. Eviction - a legal procedure for taking over land or housing.
13. Gault - refers to a case where juveniles obtained many due process rights.
14. Hung jury - a jury unable to reach a majority or unanimous decision as the case may be.
15. Indictment - a written accusation prepared by a grand jury charging a person has committed a crime.
16. Intake Hearing - conducted in the case of a juvenile to determine if a given case should be taken to court for a hearing.
17. Juvenile Hearing - a court proceeding or trial-like process to determine the guilt or innocence of a juvenile.
18. Kent - a court case which outlined some due process procedures that should be followed before a court can waive jurisdiction of a juvenile to an adult court.

Learning Activity #1 Whom Am I? (con't.)

19. Minor - a person under the age of full legal rights and duties.
20. McKiever - a court case where the Supreme Court ruled that fundamental fairness did not necessitate a trial by jury for juveniles.
21. Offense - a term used in juvenile law for a violation of the law.
22. Own Recognizance - release of a person before a trial without bail.
23. Parole - release of an offender before completion of term.
24. Plea Bargain - a process where attorneys, with permission of the defendant, agree that the defendant will plead guilty to lesser charge and receive sentence for it.
25. Preliminary Hearing - a court procedure during which a judge decides whether or not there is enough evidence to bring an accused person to trial.
26. Recidivism - a term which refers to repeat offenders.
27. Status offense - a non-criminal act of which a juvenile may be taken into custody but for which an adult would not be arrested.
28. Sentence - a punishment for a crime.
29. Take into Custody - term used for juveniles meaning the same as arrest for adults.
30. Trial by jury - a body of persons, usually twelve, who are charged with the responsibility of determining any questions of fact according to the evidence given in a civil or criminal proceeding.

YOUTH AND THE COURT SYSTEM

Learning Activity #2

Title: Expert for the Day

Objective: Students will be able to state in their own words answers to questions regarding the juvenile justice system.

Approximate Time: 40 minutes

Materials: Question and Answer section entitled "Youth and the Juvenile Court System.

Directions: To the Teacher

1. Invite a court-related service worker, juvenile judge, or youth service person to meet with your class.

2. Provide the invited speaker with a copy of the Question and Answer section entitled "Youth and the Court System." Inform him/her that your students will be discussing the questions on "Youth and the Court System" and that you wish him/her to serve as a resource person.

3. Assign one question from the "Youth and Court System" section to two students at least two days before doing the activity in class.

4. Inform each group of two students that they will be experts on the question assigned to them. As experts they will be expected to:
   a. give a proper and clear response to the question assigned. The response should be stated in their own words - not read.
   b. know the meaning of words used in their questions such as "neglected," "reverse certification," etc.
   c. know how to ask questions of resource person that may increase their understanding of the question.

5. Do the activity. Have one of the two students ask the question, the other provide the answer. The student who asks the question should be able to provide clarification if needed.

Learning Activity #2 Expert for the Day (con't.)

6. At the conclusion of each question the resource person may do one or all of the following:
   a. affirm the effort of the students
   b. add additional information as needed.
   c. answer additional questions raised by students
   d. give an example
   e. do a brief role play to demonstrate a process.

Evaluation: The objective has been attained if student responses to the question assigned are stated in their own words and are reasonably accurate in the opinion of the resource person.

YOUTH AND THE COURT SYSTEM

Learning Activity #3

Title: The History of Juveniles and The Law

Objective: Students will be able to identify the three primary stages through which the law for treating juvenile defenders progressed.

Approximate Time: 45 minutes

Materials: Pages entitled "History of Juveniles and The Law," this activity.

Directions: To the teacher

1. Distribute pages entitled "History of Juveniles and The Law" to students. This may be given as an assignment on the previous day.
2. Discuss the main ideas in class. Be sure students obtain some idea of why change occurred. For purposes of identification call period I, before 1899 - "The Punishment and Discipline Period." Period II, from 1899 - 1967, identify as the "Leave it to the Judge Period." Call Period III, from 1967 to present the "Due Process" period.
3. Assign the number one, two, or three, to all students. Do this in a way that other students will not know the number of their classmates. Caution students to not reveal their number to others.
4. Assign the first group of students to write a short account of a youth in Period I, the second group, Period II, and the third group, Period III.
5. Each student's account should have a character (youth) who commits a crime, is caught, and tried. (Optional - students with artistic ability may be given the opportunity to draw their account.)
6. Members of the class will write the name of the period and a reason why they selected that particular period after each student reads, pantomimes, or exhibits his/her account.

Learning Activity #3 The History of Juveniles and the Law (con't.)

7. After students have written the period of time and a reason why they selected that particular period for a given student presentation, have a show of hands to determine how students voted. Randomly select two students to provide their reason for the selection.

Evaluation: The objective has been attained if the student accounts convey an understanding of the period to the extent that a majority of the students correctly select the right period and give reasons consistent with their selection.

Periods in Juvenile Justice

Juvenile Justice Prior to 1899 - "Punishment and Discipline Period"

1. There was no juvenile court.
2. Children who committed crimes were subject to the same penalty as adults.
3. Hanging was one of the most common penalties in the earlier period.
4. Although courts eventually ceased to condemn children to death, they were still sent to penal institutions where they spent their time with hardened criminals.
5. In England, poor and homeless children were bound out to the lowest bidder who was expected to educate and discipline the child.
6. Hundreds of children, in need of supervision, were shipped from England to the American Colonies.

Juvenile Justice 1899 to 1967 - "Leave it to the Judge Period"

1. This period saw the beginning of a reform movement to separate children from adults in the legal system.
2. The first juvenile court was started in Illinois in 1899.
3. The idea was that the kindly judge, acting as a father figure, would review the current life of the child with the probation officer.
4. Parents or other witnesses were seldom involved. After reviewing the life of the child the judge would informally make judgment. Frequently the decision was to place the child in an institution dedicated to the care and rehabilitation of the child. Frequently this care and rehabilitation translated into stern disciplinary techniques.
5. By 1925, all but two states had juvenile courts. All of them performed their work informally and behind a cloak of secrecy which protected the children from the scrutiny of the public but at the same time allowed the courts and institutions to function with little public knowledge of their performance.

Learning Activity #3 The History of Juveniles and the Law (con't.)

6. The child care facilities, frequently called industrial training schools, gradually became impersonal regimented "buildings with white-washed walls."
7. Sometimes children were sentenced to much stiffer punishment than were adults who committed the same crime.
8. A classic example where the courts used this informality to make a questionable decision about a delinquent was the Gault Case. In the Gault Case, Gerry Gault, a fifteen (15)- year-old boy was charged with making an obscene telephone call. He had no lawyer, no witnesses, nor was a transcript of the hearing made. Gerry was committed to a state industrial school until age 21. Had he been an adult the maximum penalty would have been a $50.00 fine or imprisonment up to two months.

Juvenile Justice 1967 to Present - "The Due Process Period"

1. As a result of the Gerry Gault and other similar cases, juvenile courts must now follow certain prescribed "Due Process" procedures such as:
   a. children are now entitled to notice of specific charges
   b. these charges must be given in advance of hearings to permit preparation against charges
   c. children are entitled to the assistance of counsel during a delinquency trial
   d. they also have the right to confront and cross examine witnesses and protection against self incrimination
   e. later it was decided that the state must prove guilt beyond a reasonable doubt in a juvenile case as in an adult case. Prior to 1970, it had been preponderance of evidence.

YOUTH AND THE COURT SYSTEM

Learning Activity #4

Title: Did Gerry Get What Was Due Him?

Objective: Students will be able to identify the presence or absence of basic rules of fairness (Due Process of Law) when examining the court procedure in the Gerry Gault Case.

Approximate Time: 20 minutes

Materials: Gerry Gault Case in Learning Activity #6, this section; the Fifth and Sixth Amendments to the U.S. Constitution.

Directions: To the Teacher

1. Write the Fifth and Sixth Amendments to the U.S. Constitution on the chalkboard or refer students to them in the textbook or from other available sources.
2. Note there are nine separate rights listed beginning midway through the Fifth Amendment with the words "Nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb."
3. Number the rights, through nine beginning with the one stated above.
4. Assign one of the nine rights to each student.
5. Give each student the Gerry Gault account from Learning Activity #6, this section.
6. Ask them to read the Gault account and be prepared to tell the class if Gerry had their assigned right when he was tried. Verify the response of the first student with other students having the same number.

Evaluation: Students will have achieved this objective if they properly identify the absence or presence of the right as it relates to Gerry Gault's case.

YOUTH AND THE COURT SYSTEM

Learning Activity #5

Title: You Be the Judge

Objective: Students will be able to list the rights accorded juveniles as a result of the Gault Case.

Approximate Time: 20 minutes

Materials: The Gerry Gault Case in Learning Activity #6, this section.

Directions: To the Teacher

1. Give students a copy of "The Gerry Gault Case" which is part of Learning Activity #6.

2. Tell the students the Gault Case was reviewed by the U.S. Supreme Court in 1967. Nine Justices of the U.S. Supreme Court listened to Gerry's lawyer. They also heard a lawyer defend Arizona's Juvenile Court System.

   Afterwards the Justices discussed the case; then, they voted. Eight Justices agreed on one of the following opinions. In each a Justice says how he thinks the Bill of Rights should apply to juveniles. Read the opinions and ask students to decide the following questions:

   a. which opinion makes the most sense to you? why?
   b. with which opinion do you most agree? why?
   c. which opinion do you think the court supported by an 8 to 1 vote?

3. (Optional) If time allows, lead students in a discussion of the question: why do you think the Due Process rights given juveniles does not include all the rights given adults in the Fifth and Sixth Amendments?

4. Note: Justice Abe Fortas wrote the Majority Decision.

Evaluation: Students have accomplished this objective if they are able to identify the right opinion.

YOUTH AND THE COURT SYSTEM

Learning Activity #6

Title:	Getting Acquainted with Gault, Kent, Winship, and McKeiver
Objective:	Students should be able to narrate the major points of each case and to match essential finding with a given case.
Approximate Time:	30 minutes
Materials:	Cases provided in this activity; matching exercise provided this activity.

Directions: To the Teacher

1. Divide the class into four groups.
2. Assign a case to each group. Provide them with the information regarding each case provided in this activity.
3. Inform each group that they should be prepared to report on the case assigned to them. If time allows they may option to role play rather than narrate.
4. If students role play they may add parts such as parents, friends, etc., but should remain true to the script in terms of issues and findings. Students should be reminded that these are appeal cases and thus two court hearings are required - one to get the original decision, the other to appeal before the Supreme Court.
5. If students narrate they may assign these parts (for narration) to separate students within the group. The defendant - who was he, what did he do?; The First Decision - what was it?; The Appeal - what was appealed?; The Supreme Court Majority Decision - what did it say?; The Minority Decision - what did it say?
6. (Optional) You may wish to do a case study on these cases as described on pp. 146-150.

Learning Activity #6 Getting Acquainted (con't)

Evaluation: The students' narration or role plays should be consistent with the fact of the case and each student should be able to match the following statements and cases with at least 80 percent accuracy.

Note: Justice Abe Fortas wrote the Majority Decision in the Gault Case.

(Note) Answers to matching exercise are: Gault - 2, 9, 11, 14, 15; Kent - 1, 8, 10; Winship - 3, 6, 7, 12; McKiever - 4, 5, 13.

The Gerry Gault Case

Gerald Gault was a fifteen (15) year old boy who lived in Arizona. He was on probation for another offense when he was accused of making an obscene phone call to a neighbor.

Gerry was placed in a juvenile center without any notice being sent to his parents. His parents were told one day that his hearing would be the next day. He did not have a lawyer at his hearing nor was a record kept of the hearing. No witnesses were called to the hearing. Neither was Gerry told that he need not testify against himself.

Gerry was ordered to go to a state school for boys with possible detention to age 21. Had he been an adult, maximum penalty would have been a fine of $50.00 and/or imprisonment in the county jail for 60 days or less.

Gerry's lawyers appealed the case to the Supreme Court on the basis that juveniles did not have the same rights as adults to defend themselves. In 1967 the Supreme Court ruled on the case.

Justice Abe Fortas wrote one opinion that included these points:

1. The Bill of Rights and 14th Amendment are not for adults alone--juveniles need their protection also.

2. As a very minimum, juveniles should have these rights:
   a. to be notified of charges against them
   b. to get the charges in sufficient time to prepare for a hearing
   c. to have the help of a lawyer
   d. to remain silent--not incriminate themselves

Learning Activity #6 Getting Acquainted (con't.)

Justice Potter Stewart wrote an opinion that included these points:

1. Before the beginning of our juvenile courts (1899) children were tried in adult courts. Although they had the same rights as adults they also received the same punishment as adults. Sometimes, they were hanged.

2. Our juvenile courts now keep children from being tried and punished as criminals.

3. Juvenile court hearings are not like criminal court hearings. Juvenile court judges are expected to act like wise parents. The court should not overturn the lower court ruling in Gerry Gault's case.

The Kent Case

The Kent case was first tried in the District of Columbia. It later became the first juvenile case decided by the U.S. Supreme Court. The year was 1966. Morris Kent was a sixteen (16)-year-old boy with a prior delinquency record. He was charged with rape, housebreaking, and robbery. Their crimes were serious and the evidence strong against him.

The judge, believing that Kent could not be rehabilitated in the juvenile system, waived (gave up) juvenile jurisdiction over Kent and turned him over to be tried in adult court. He made the decision to waive jurisdiction without a hearing, or conferring with Kent, his attorneys, or parents. He did not rule on a motion requesting a hearing on the waiver issue which was filed by Kent's attorneys.

A jury found Kent innocent of the rape charge by reason of insanity but guilty of six counts of robbery and housebreaking. He was sentenced to jail for a period from 30 to 90 years.

Kent's attorneys appealed the case asking the Supreme Court to send the case back to lower court for reconsideration on the basis that Kent's rights to a juvenile hearing had been unfairly waived. Justice Abe Fortas wrote the majority decision (5-4). It included these points:

a. he said that juvenile judges had wide discretion but not "a license for arbitrary procedure"

b. at the very least, he said, the judge should have provided Kent with a hearing regarding the waiver, with counsel, and access to the social records which the judge had inspected. Also, a statement of reasons should have accompanied the waiver order. The dissenting opinion was written by Justice Stewart. Primarily he concluded that the Supreme Court should have sent the Kent case back to the District of Columbia Appeals Court rather than to the lower court for reconsideration.

The McKeiver Case

Joseph McKeiver was sixteen (16) years of age when he was taken into custody for having stolen 25 cents from another teenager. He was charged with robbery, larceny, and receiving stolen goods. He requested a jury trial which was denied because Pennsylvania statutes did not require jury trials in juvenile proceedings.

The court adjudged McKeiver to be delinquent. A custody order was entered committing him to the county department of public welfare for placement in a suitable institution. The court suspended the commitment, however, and placed McKeiver on probation from one to two years and ordered him to be home by 11 o'clock each night.

The case was appealed on the basis that McKeiver should have been entitled to a jury trial. Justice Blackman wrote the plurality opinion of the court which refused to require jury trials in delinquency offenses. Generally the plurality opinion and concurring opinions were based on these points:

a. jury trials, it was feared, would entail delays, formality, and the clamor of the adversary system
b. it would impair the intimate, informal, protective proceedings envisioned for the juvenile court
c. there was no evidence juries find facts better than judges
d. fundamental fairness did not require a jury
e. while the court did not require juries in juvenile proceedings it did not prohibit them

Justice Brennan, writing in dissent, argued:

a. that both trial by jury and the right to a public trial serve to protect against the misuse of the judicial system
b. consequently, states should at least require one or the other in juvenile proceedings to keep juvenile courts from operating in secrecy

The Winship Case

Samuel Winship, a twelve (12)-year-old boy, was accused of entering a locker and stealing $112.00 from a woman's purse. The juvenile judge, admitting that he found Winship guilty by a preponderance of evidence rather than by evidence beyond a reasonable doubt, committed him to the state training school for a period of 18 months, subject to extensions until his 18th birthday.

(Note: Many state statutes, as did the New York statute where Winship was tried, allowed juvenile court judges to find guilt in delinquency cases on the preponderance of evidence standard whereas, in adult courts the burden has been traditionally proof beyond a reasonable doubt. Generally speaking, the standard of preponderance of evidence is met when the judge finds the existence of guilt more probable than its non-existence. The beyond a reasonable doubt standard is met when the judge has an abiding belief to a moral certainty that a person is guilty.)

Winship's attorneys appealed the case on the grounds that under the 14th Amendment the same rule of guilt beyond a reasonable doubt should apply in juvenile proceedings as in adult proceedings.

In 1970 the Supreme Court in a 6-3 ruling concurred with Winship's attorneys. Justice Brennan made these points in writing the majority opinion:

a. To ensure fairness and due process of law the state must prove guilt beyond a reasonable doubt in delinquency as well as adult cases;

b. A serious loss of liberty would result from a lesser standard.

Chief Justice Burger and Justice Stewart dissented as follows:

a. The decision, they said, was a regression to an earlier juvenile court system which would put in a "straitjacket" an already restricted system;

b. What juvenile courts needed was more support, staff, and most of all more breathing room and flexibility to survive.

Matching Exercise

Match the Number of the Case with the Proper Statement

Statement		Case
_____	1. Tried in District of Columbia	1. In Re Winship (397.U.S.358)
_____	2. Obscene telephone call	2. Kent v. United States (383 U.S. 541) 1960
_____	3. Stole $112,00	3. In re Gault (387 U.S.1; 87.S.C. 1428) (1967)
_____	4. Stole 25 cents from another boy	4. McKeiver vs. Penn. (403 U.S. 528, 91S.Ct.) 1976
_____	5. Requested a jury trial	
_____	6. 12 years of age	
_____	7. Committed to a state training school for 18 months	
_____	8. 1st juvenile court case decided by the U.S. Supreme court	
_____	9. 15 years of age	
_____	10. Decision reversed because of improper waiver	
_____	11. Committed to state industrial school until age 21	
_____	12. Convicted on preponderance of evidence rather than proof beyond reasonable doubt	
_____	13. Denied right to a public trial in juvenile court	
_____	14. Established that a minor has due process rights	
_____	15. Received a tougher penalty than an adult for the same time	

YOUTH AND THE COURT SYSTEM

Learning Activity #7

Title:	Adult Court vs. Juvenile Court System
Objective:	Students will know the essential differences between a juvenile court and an adult court and will be able to give reasons for the differences.
Approximate Time:	75 minutes
Materials:	Pages on juvenile and adult court system included in this activity. (Optional) A resource person from the district attorney's office.

Directions: To the Teacher

1. Divide the class into two relatively equal groups. Designate one group as adult court the other as juvenile court.
2. Give students the appropriate pages included in this activity. Discuss with students.
3. Tell students that they are to role play what happens to a person in their assigned system from the time a person is arrested or taken into custody for delinquency through the time a decision is made about the disposition of the case. Remember the role play is to help students understand the steps and what happens at each step -- not to do a comprehensive trial. If properly organized each role play should not exceed 10 minutes.
4. Students may base their role play on the following cases.

   Adult: A 30-year-old man is accused of robbing a convenience store of $500. The accused fits the description given by the cashier. Police found currency in his apartment which matched the details of the money taken, by the owner of the store.

   Juvenile: A sixteen (16)-year-old girl has a history of running away. She has a past record of two shoplifting charges and numerous truancies. She is charged with possession of PCP and intent to distribute PCP and marijuana.

Learning Activity #7 Adult Court vs. Juvenile Court System (con't.)

5. In planning the role play students should designate these roles, and others as they see fit.

Adult	Juvenile
Person arrested	Person taken into custody
Police person	Police person
Person who does the booking	Parents
Prosecuting attorney	Intake worker
Defense attorney	Attorney
Court clerk	Judge
Judge	Probation officer
Bailiff	Court clerk
Jury	

6. Preferably students should be given the assignment a day or two prior to the role play activity.

7. (Optional) You may wish to invite as a resource person, a district attorney, an assistant to the district attorney, or another person knowledgeable about both systems. This person may answer preliminary questions students may have about the role play and/or observe the role play and make comments and clarifications following the role play. Be sure to inform the guest regarding your activity and be specific in what you want that person to do.

Evaluation: Students will have attained the stated objective if their role play portrayals indicate an awareness of what happens at each step and if they can identify the basic differences of the processes in one or two written paragraphs.

Steps When Juveniles Violate Oklahoma Law

1. Police custody
2. Referred to Court Related and Community Services Division of the Department of Human Services (Intake)
3. Intake personnel.
   a. Prior to interview advise juvenile and parents of their legal rights concerning statements.
   b. Advise of right to formal hearing.
   c. Make initial determination of whether juvenile court has jurisdiction.
   d. Determine whether minor is delinquent, in need of supervision, dependent, neglected or deprived.
   e. Make recommendation to district attorney regarding detention (Note: only the D.A. can make decisions about detention).
   f. May release juvenile with no further action if case, as determined by the D.A., has no prosecutive merit.
   g. May seek remedies outside the court system (diversion). The purpose of diversion is to assist the juvenile and/or family to adjusting problematic behavior. This may include but not be limited to crisis intervention, counseling, alternative education, etc.
   h. Prepare and file a petition that juvenile is in need of supervision or request D.A.'s office to prepare and file a petition alleging the youth to be a delinquent.
4. An adjudication hearing is conducted. The purpose of this hearing is to determine whether the allegations of the petition are supported by evidence and whether a juvenile should be adjudged to be a ward of the court.
5. An arraignment is held - juvenile may plead guilty or ask for a hearing. Attorney appointed.

6. A Dispositional Hearing is held. The intake counselor provides the court with a complete social history and treatment plan on the adjudicated juvenile. At this hearing recommendations are presented to the court in order for a decision to be made which best serves the interest of the juvenile and the public.
7. The judge rules on the disposition of the case. Some alternatives of the court are:
   a. the court may order the juvenile placed on probabtion in the youth's home or in custody of another
   b. the court may commit the juvenile to a private agency approved by the Human Services Department
   c. the court may commit the juvenile to the custody of the Department of Human Services

Factors To Be Considered in Making an Intake Decision

The Intake Decision will be made after a consideration of various factors which interact within three broad areas: legal sufficiency, individual need, and alternative community resources.

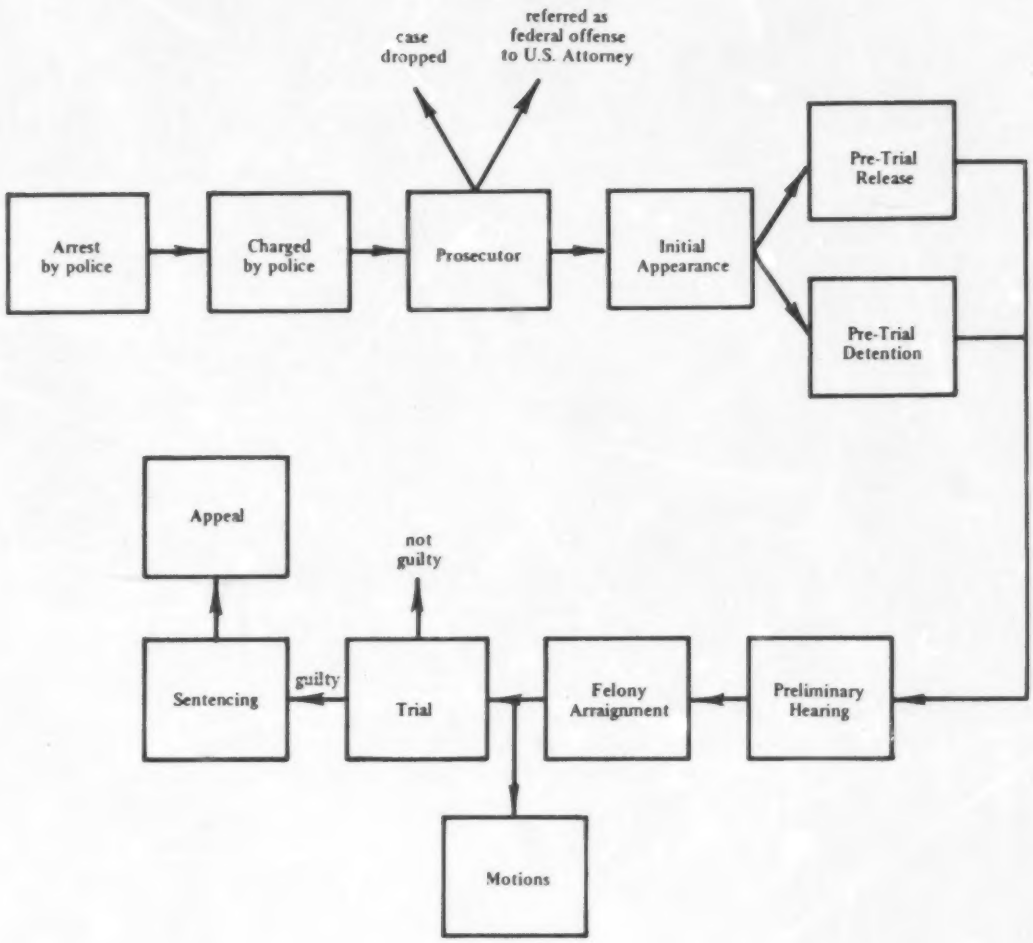
The following list of specific factors to be considered in making a decision:

1. Seriousness of the offense
   a. Intent
   b. Severity of personal injury
   c. Extent of property damage
   d. Value of property taken - whether or not recovered
   e. Whether the offense is repetitive or isolated
2. Child's version of the offense (does he admit his involvement in the violatic..)
3. Impact of the offense on any individual or on the community
4. Previous number and nature of Department of Juvenile Services, police, and Juvenile Court contacts

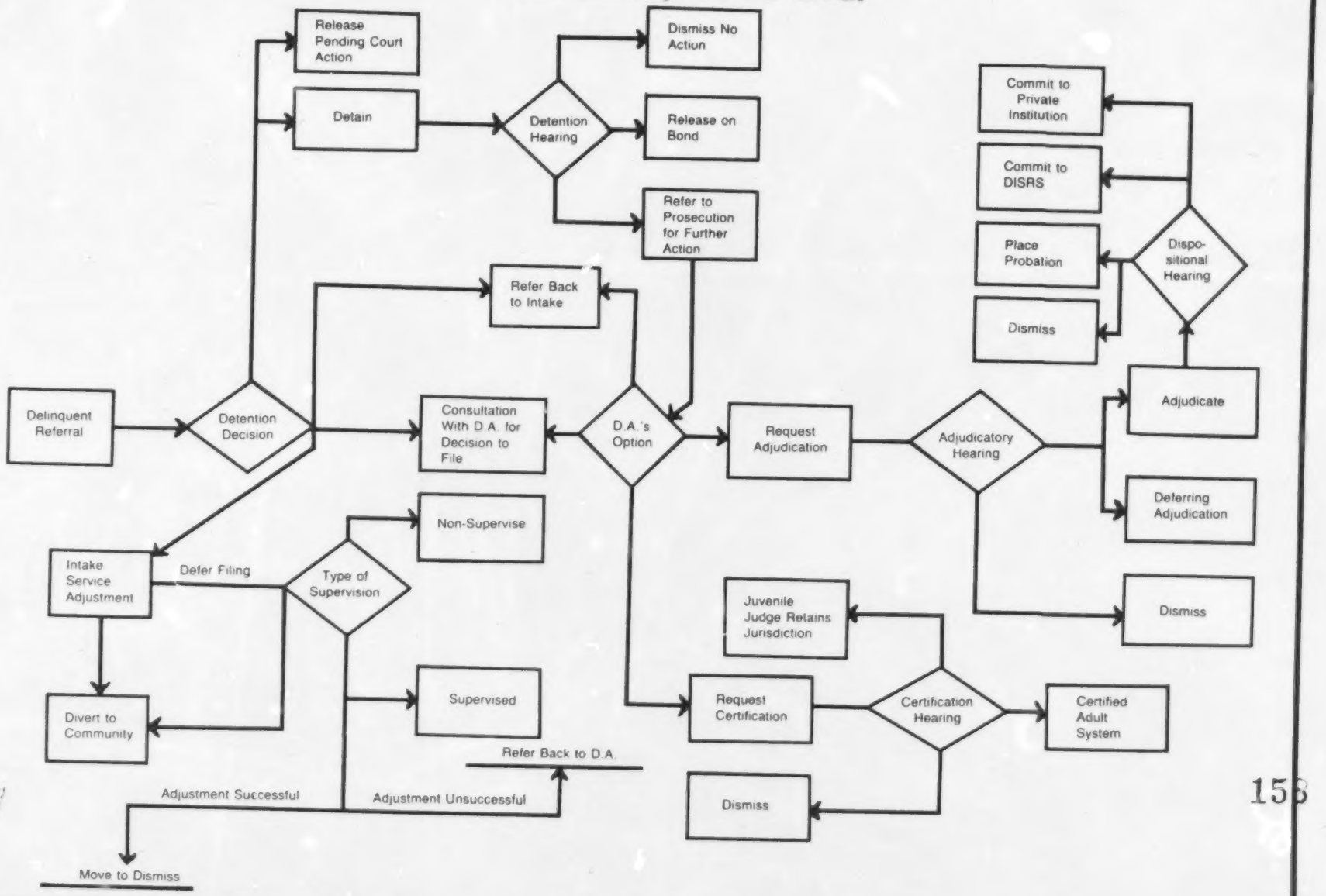
5. Age and maturity of child (Was the violation committed because of an immature impulse or was it premeditated? What is the child's degree of awareness regarding the severity of the violation?
6. Attitude of child
7. Attitude of parents toward child's responsibility regarding the offense and toward discipline of the child. (A possible lack of parental control or concern may be reflected by the time of day the offense occurred, etc.)
8. Degree of incorrigibility under parent's supervision. (Does the child normally obey reasonable guidelines set by the parents?)
9. School attendance and behavior pattern
10. Available social factors
11. Resources and ability of family and community to provide appropriate care, treatment, and rehabilitation as opposed to the Department of Juvenile Services or the Court doing so.

If the child or his parent demand a formal hearing in delinquency cases, petition authorization will be pursued.

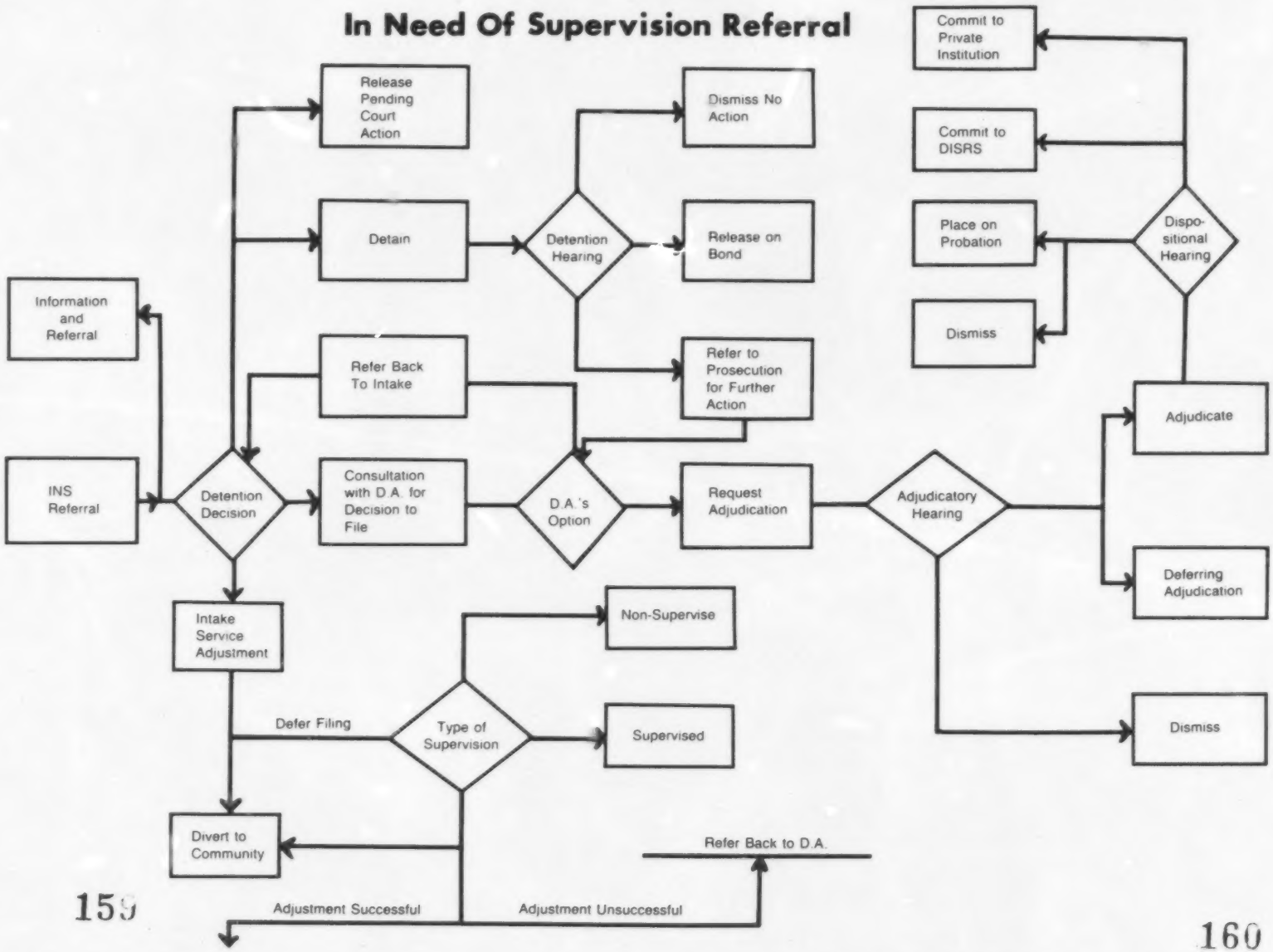
ADULT CRIMINAL PROCEDURE
IN A TYPICAL STATE COURT



Intake Delinquent Referral



In Need Of Supervision Referral



Film and Filmstrip Resources

LAW CITIZENSHIP EDUCATION

The following 16 mm film and filmstrips on Law-Citizenship Education are being made available to teachers through the:

Media Resource Section
State Department of Education
2500 N. Lincoln Blvd.
Oklahoma City, OK 73105
(Phone: 405-521-3103)

Film and filmstrips are referenced in the State Department of Education Library Catalog according to alphabetical order with brief annotation:

Elementary - 16 mm film

WHY WE HAVE LAWS, WHY WE HAVE TAXES, YES AND NO, WHAT'S YOUR AUTHORITY, I'M JUST A BILL, LEMONADE STAND, and THE HIDEOUT

Jr.-Sr. High School - 16 mm film

BILL OF RIGHTS, FEINER CASE, GIDEON CASE, SCHEMPP CASE, SHEPPARD CASE, THE THIEF, UNDER ARREST, STORY OF A TRIAL, CHANGING THE LAW, TROUBLE WITH THE LAW, UNDERSTANDING THE LAW, YOUNG VOTE, PRESUMPTION OF INNOCENCE, THE RIPOFF, and POWER, POLITICS AND PARTICIPATION

Elementary - Filmstrips

MACHINERY OF JUSTICE, FOUNDATIONS OF JUSTICE, NOISY NANCY NORRIS, DEVELOPING BASIC VALUES, FREEDOM - WHAT'S IT ALL ABOUT, CITIZENSHIP ADVENTURES OF THE LOLLIPOP DRAGON, and RULES WE LIVE BY

High School Filmstrips

JUSTICE AND THE LAW, CAREERS IN LAW ENFORCEMENT, LAW AND JUSTICE IN THE U.S., and IN SEARCH OF JUSTICE

The above referenced films and filmstrips are made available to teachers through funding from the Oklahoma Bar Association, Oklahoma Bar Foundation, and the Oklahoma Crime Commission.

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EVALUATION

The State Department of Education would appreciate your help. Please answer the following questions and return this page to the address listed below.

1. Circle grade level taught: K 1 2 3 4 5 6

2. Was the content of this publication generally appropriate for your classroom? Yes_____ No_____

3. Was the information:
   most helpful_____ of no help_____ of some help_____

4. Which sections did you find most useful?
   1_____ 2_____ 3_____ 4_____ 5_____ 6_____

5. What are some related types of publications that would be of use to you?

6. Comments/suggestions:

Name (optional):_____

Please return to: Sharon A. Lease, Assistant Administrator
Curriculum Section
State Department of Education
2500 North Lincoln Boulevard, Room 3-82
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